

Deposition of:  
**Commander Suzanne Curmode**

September 28, 2017

DALE PHILLIPS

v.

KAREN BLAIR, et al.

Case No. 2:16-CV-880



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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF OHIO  
3 WESTERN DIVISION  
4  
5 \_\_\_\_\_ )  
6 DALE PHILLIPS, )  
7 Plaintiff, )  
8 vs. ) CASE NO.  
9 KAREN BLAIR, et al., ) 2:16-CV-880  
10 Defendants. )  
11 \_\_\_\_\_ )

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14

15 Deposition of: COMMANDER SUZANNE CURMODE  
16 Pursuant to: Notice  
17 Date and Time: Thursday, September 28, 2017  
9:05 a.m.  
18 Place: Office of Columbus  
City Attorney  
19 Richard C. Pfeiffer, Jr.  
77 North Front Street  
20 Columbus, Ohio 43215  
21 Reporter: Wendy Scott  
22 Notary Public - State  
of Ohio

23

24

25

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Also Present:

19

20 Dale K. Phillips, II

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1	I N D E X			
2				
3	COMMANDER SUZANNE CURMODE		PAGE	
4	EXAMINATION BY MS. BRATTON		4	
5				
6				
7	EXHIBITS	MARKED	REFERENCED	
8	PLAINTIFF'S EXHIBIT 2	-	54	
	PLAINTIFF'S EXHIBIT 3	-	56	
9	PLAINTIFF'S EXHIBIT 10	-	30	
	PLAINTIFF'S EXHIBIT 33	21	21	
10				
11				
12	- - -			
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1                   COMMANDER SUZANNE CURMODE

2     a witness herein, having been duly sworn, was  
3     examined and deposed as follows:

4                   EXAMINATION

5     BY MS. BRATTON:

6           Q.     Good morning.

7           A.     Morning.

8           Q.     Could you please state your name for  
9     the record?

10          A.     It's Suzanne Marie Curmode.

11          Q.     Okay. And what is your position with  
12     the Columbus Police Department?

13          A.     I'm a police commander.

14          Q.     Okay. Can you, Commander Curmode,  
15     spell your last name?

16          A.     It's C-u-r-m-o-d-e.

17          Q.     Okay. Thank you.

18                   Have you ever had your deposition taken  
19     before?

20          A.     Yes.

21          Q.     Okay. So you know to answer out loud.  
22     Kind of like trial, no uh-huhs or uh-uhs, and  
23     I'll try to remind you. And sometimes I may do  
24     it, too.

25          A.     Okay.

1 Q. If you don't understand something, the  
2 question is too long or convoluted, just let me  
3 know and I'll restate it.

4 If you remember something later on in  
5 the deposition from a prior question, just let me  
6 know and we'll go back to it to make sure that  
7 the record is clear.

8 And if you need a break, just let me  
9 know. Then I'll just ask that we finish the  
10 question that we're on and then take a break.

11 Is there any reason today that -- for  
12 medication or distractions that would impair your  
13 ability to concentrate?

14 A. No.

15 Q. And have you looked at any  
16 depositions -- not depositions. Have you looked  
17 at any documents in preparation for your  
18 deposition today?

19 A. No.

20 Q. And did you -- so you didn't look at  
21 any of the use of force?

22 A. No.

23 Q. Okay. And what about any video or  
24 audio?

25 A. No.

1 Q. Okay. And other than your attorney,  
2 have you talked to anybody about the incident  
3 involving Dale Phillips?

4 A. No.

5 Q. And while the investigation was  
6 pending, who did you talk to?

7 A. I don't remember.

8 Q. And instead of asking you about  
9 personal information, we'll go through your  
10 counsel in the event we need you for trial.

11 A. Okay.

12 Q. And do you have -- or how long have you  
13 been with City of Columbus?

14 A. Thirty-three years.

15 Q. And is that your only law enforcement,  
16 or were you with law enforcement prior to joining  
17 Columbus?

18 A. No, it's my only one.

19 Q. What about military experience?

20 A. No military.

21 Q. And education?

22 A. I have a bachelor's degree from The  
23 Ohio State University in social work.

24 Q. Okay. And how long have you been a  
25 commander?

1           A.     Seventeen years.  Almost 17 years,  
2     yes.

3           Q.     Can you explain to me how you started  
4     and rose up the ranks?

5           A.     Right.  I came on in 1984, was an  
6     officer, got promoted as sergeant approximately  
7     four years after that; got promoted to lieutenant  
8     a few years after that, maybe three years after  
9     that; and then commander in 2001, early 2001.

10          Q.     Okay.  And were all of the positions in  
11     patrol like sergeant of patrol or lieutenant?

12          A.     No; different places.

13          Q.     And what were the -- I guess, are they  
14     departments or --

15          A.     Bureaus, units, yes.

16          Q.     Okay.

17          A.     Worked South End patrol; worked in  
18     narcotics bureau; worked in SCAT, which was a  
19     juvenile task force bureau; strategic response  
20     bureau is my current assignment; and a couple  
21     different areas in patrol --

22          Q.     Okay.

23          A.     -- and patrol admin section.

24          Q.     Okay.

25          A.     I think that's it.



1 Q. Okay. And what were your duties as  
2 commander, as of September 2014?

3 A. September 2014, I was commander of the  
4 strategic response bureau.

5 Q. Okay. And that's where you're at now,  
6 correct?

7 A. Yes.

8 Q. Okay. And what are your duties as  
9 commander?

10 A. I have various units assigned to me,  
11 community liaison officers, school resource,  
12 different units. And I'm the commander of that  
13 unit. I've got lieutenants and sergeants and  
14 maybe a hundred-and-some officers, 120 officers.

15 Q. Okay. And at what point do you get  
16 involved in investigations of your officers?

17 A. It depends on the investigation.

18 Q. Okay. And what kind of investigations  
19 do you conduct of the officers?

20 A. Okay. I'm not sure I understand  
21 exactly what you're asking.

22 Q. So if -- you said it depends on the  
23 investigation what your involvement is.

24 A. Right.

25 Q. So would there be like an internal or

1 something that you happen upon -- happen upon or  
2 a citizen complaint?

3 I guess the proper question would be,  
4 how do complaints come to you?

5 A. Well, we have chain of command.  
6 Complaints would go, typically, through the  
7 internal affairs bureau. And we have a chain of  
8 command, and certain things do come to the  
9 commander level --

10 Q. Okay.

11 A. -- for disposition or for a  
12 recommendation. Some do not.

13 Q. Okay.

14 A. Some are handled at lower levels. It  
15 depends on the circumstances and the situation.

16 Q. Okay. And have you had the occasion to  
17 investigate whether an officer -- whether any of  
18 your officers made constitutional stops and  
19 detentions?

20 MS. LLOYD: Objection as to form.

21 BY MS. BRATTON:

22 Q. You can answer. If there's an  
23 objection, unless she directs you not to answer,  
24 you can --

25 A. I guess the word investigate, I -- I

1     don't do the investigation. I would read and  
2     review and recommend.

3           Q.    Okay. If you read -- have you ever had  
4     the occasion to read and review an investigation  
5     and ask for further investigation?

6           A.    At times.

7           Q.    Okay. So I guess, then, have you ever  
8     read and reviewed an investigation of a stop and  
9     detention that a citizen alleged to be  
10    unconstitutional?

11           MS. LLOYD: Again, objection as to  
12    form, and as to what the investigation could  
13    be.

14           Again, maybe I'm not being clear, but I  
15    think we've already had testimony as to what  
16    internal investigations are. And I believe  
17    you're mischaracterizing what an internal  
18    investigation could be.

19    BY MS. BRATTON:

20           Q.    You all teach your officers about  
21    constitutional stops, is that correct, in the law  
22    training?

23           A.    Officers have constitution and legal  
24    training in the academy and community service,  
25    yes.

1           Q.    Okay.  So do you have the occasion to  
2   look at investigations when a citizen -- to  
3   review an investigation when a citizen has made a  
4   complaint that they have been stopped in  
5   violation of their constitutional rights?

6           MS. LLOYD:  Again -- I'm going to  
7   object, once again, to the extent that we've  
8   already had testimony as to what an internal  
9   police investigation could be and that it is  
10   not a -- well, again, I think you know what  
11   I'm talking about.

12          MS. BRATTON:  No, I don't.

13          MS. LLOYD:  Okay.  We've had testimony,  
14   much testimony, in this case from internal  
15   affairs that an internal police  
16   investigation is not an investigation as to  
17   whether or not the constitution has been  
18   violated.

19          MS. BRATTON:  There was testimony from  
20   Johnson that internal affairs can  
21   investigate whether or not an officer  
22   stopped a person -- he did not use the word  
23   constitutional --

24          MS. LLOYD:  Right.

25          MS. BRATTON:  -- but -- but it's --

1           according to their training, from the  
2           constitution, you just can't stop a random  
3           person walking down the street. And he  
4           specifically said that -- well, I'm not --  
5           I'm not going to argue with you.

6 BY MS. BRATTON:

7           Q. If you can understand the question, you  
8           can answer it.

9           A. I don't understand.

10          Q. Okay. You -- officers are trained to  
11          know when they can or cannot stop someone; is  
12          that correct?

13          A. Yes.

14          Q. Okay. And that is in the law training,  
15          the legal training that officers are given,  
16          correct?

17          A. Yes.

18          Q. Okay. And that legal training is  
19          updated as, I guess, case -- or as cases come  
20          out, you all get updates, correct?

21          A. Yes.

22          Q. And what is that -- when you all are  
23          trained on it, what are your trainings  
24          surrounding stops and detentions, as far as the  
25          legal training?

1 MS. LLOYD: Again, objection as to  
2 form.

3 A. Okay. I don't understand exactly what  
4 you're asking.

5 BY MS. BRATTON:

6 Q. What are officers trained what they can  
7 or cannot do, or their limits, when they're  
8 stopping a citizen?

9 MS. LLOYD: Objection as to form.

10 A. I don't personally conduct the  
11 training. Our legal bureau does the updates on  
12 case law, Supreme Court decisions, that kind of  
13 thing. And they receive those updates on a  
14 regular basis.

15 So I don't know if that answers your  
16 question or not.

17 BY MS. BRATTON:

18 Q. I -- do you participate in the  
19 trainings?

20 A. We -- everyone sworn does training,  
21 yes.

22 Q. Okay. And when you participate in  
23 those trainings, what are you taught -- even  
24 though you're not doing the training, what are  
25 you taught about your ability to stop a

1 citizen?

2 MS. LLOYD: Objection as to form.

3 A. Can you rephrase it? I don't really --

4 BY MS. BRATTON:

5 Q. Yes.

6 A. -- understand exactly what you're  
7 asking.

8 Q. Uh-huh.

9 A. Your phrasing is kind of --

10 Q. Are you able to stop anyone who you  
11 want for any reason that you want?

12 A. No --

13 Q. Okay.

14 A. -- you cannot.

15 Q. And so what would be a lawful reason  
16 than an officer can stop an individual citizen  
17 walking down the street?

18 A. You have to have some type of  
19 reasonable suspicion that -- an investigative  
20 type of detention or that some type of criminal  
21 activity is afoot.

22 Q. Okay. And what about for a lawful  
23 detention?

24 A. Same -- same type of thing. You have  
25 to have some reasonableness that something is

1 up.

2 Q. Okay. And if a citizen complains that  
3 their stop and detention is not lawful and that  
4 is investigated --

5 A. Yes.

6 Q. -- have you had the opportunity to  
7 review cases such as that?

8 MS. LLOYD: Again, objection as to  
9 form.

10 And I think I can make this easier and  
11 clearer. Based on all the testimony we've  
12 already had and all the investigative  
13 material that you already have, the division  
14 of police, they're not judges in our courts.  
15 They don't make decisions of law. Internal  
16 affairs is investigating whether or not  
17 divisional policy was violated.

18 That's the confusion that we're having  
19 here. Because they're not judges.

20 BY MS. BRATTON:

21 Q. Your policy is based off of the law,  
22 correct?

23 A. Yes.

24 Q. Okay. So I'm asking you, then, you  
25 consider if something is a proper stop or not



1 based off of whether your officers are violating  
2 someone's rights?

3 A. We look at policy --

4 Q. Okay. So we'll go to policy then.

5 A. -- our policies.

6 Q. So have you had the opportunity to  
7 review whether someone's actions were in  
8 violation of policy regarding stopping and  
9 detaining a person?

10 A. I've had investigations over the years  
11 that talk about a legal detention or the --  
12 whether a detention should or shouldn't have  
13 been.

14 Q. Okay. And when you say, a legal  
15 detention, what do you determine to be a legal  
16 detention?

17 A. Like I said, based on reasonableness  
18 that the criminal activity did or didn't, or so  
19 some type of investigative information --

20 Q. Okay.

21 A. -- is -- the totality of the  
22 circumstances.

23 Q. Okay. And so you do look at, then, a  
24 legal standard when you make that  
25 determination?

1 MS. LLOYD: Again, objection as to  
2 form.

3 A. I look at the policies that we have.

4 BY MS. BRATTON:

5 Q. Okay. Well, I'm just using your words.  
6 You said legal. So I'm just asking whether or  
7 not you consider the legality of something --

8 MS. LLOYD: Again, objection as to  
9 form, asked and answered.

10 A. Oh, you want me to answer it?

11 BY MS. BRATTON:

12 Q. Yeah.

13 A. The legality of it?

14 Of course we look at the legality of  
15 policies -- our policies. That's our big thing,  
16 is with our policies.

17 Q. Okay. And when you look at a --  
18 whether or not a stop and detention is within  
19 policy, how do you -- I guess, let me rephrase  
20 that.

21 Does that complaint -- a complaint  
22 regarding a stop and detention, would that come  
23 to you through internal or through the officer's  
24 normal chain of command?

25 A. If someone makes a complaint, it goes

1 to internal affairs.

2 Q. Okay. And are you in the chain of  
3 command for internal affairs?

4 A. No.

5 Q. Okay. So how would a case, then, get  
6 to you, to your chain of command, for an  
7 officer -- for cases that you've reviewed, that  
8 deal with stops and detentions?

9 MS. LLOYD: Objection as to form.

10 A. It could come in a variety of ways. If  
11 it's a stop and detention, it could come through  
12 the chain of command. It could come through  
13 internal affairs if it was made out of a citizen  
14 complaint. It could come in different --  
15 different ways.

16 BY MS. BRATTON:

17 Q. Okay. If it goes through internal  
18 affairs --

19 A. Yes.

20 Q. -- you're not involved in that  
21 complaint process; is that an accurate  
22 statement?

23 A. I'm not sure what you're saying.

24 Q. If a citizen makes a complaint to  
25 internal affairs --

1 A. Uh-huh. Yes.

2 Q. -- about an officer in your chain of  
3 command --

4 A. Right.

5 Q. -- the internal affairs chain of  
6 command handles that complaint?

7 A. Yes.

8 Q. Okay. So then that complaint wouldn't  
9 come to you?

10 A. It would come to me -- after internal  
11 affairs investigates it, it would come through my  
12 chain of command.

13 Q. Okay. So it goes through internal  
14 chain of command. Once they make a -- is it like  
15 a recommendation?

16 A. They do an investigation.

17 Q. Okay. And then after they do the  
18 investigation, then it comes to you for approval  
19 or review?

20 A. It would go to my chain of command,  
21 yes.

22 Q. Okay.

23 A. It would go down the chain of command  
24 for review.

25 Q. Okay. And is that the same for use of

1 force, if an officer is alleged of using  
2 excessive force, more force than necessary?

3 A. If it goes to internal affairs as a  
4 citizen complaint, yes; same process. It would  
5 come down the chain of command after they  
6 investigate it.

7 Q. Okay. And as commander, are you the  
8 final decision-maker on the levels of force -- or  
9 on the use of force by your officers?

10 A. There's a continuum of force. It  
11 depends on which force --

12 Q. Okay.

13 A. -- you're asking about.

14 Q. And which level of the continuum would  
15 you be the final decision-maker on?

16 A. The final decision-maker would be on  
17 uses of mace.

18 Q. Okay.

19 A. And that would be it.

20 The rest go to -- after my level, it  
21 would go to the deputy chief.

22 Q. Okay. So then I -- would yours be  
23 level -- mace is level 2 use of force, correct?

24 A. Yes.

25 Q. Okay. So then your chain of command --

1     you're the final decision-maker for level  
2     0 to 2 uses of force?

3             A.     Yes.

4             Q.     Okay.   All right.

5                     (Deposition Exhibit 33 was marked for  
6                     identification.)

7     BY MS. BRATTON:

8             Q.     I'll give you what's been marked as  
9     Exhibit 33.   And is this your signature on the  
10    second line, where it says, Forward to Commander  
11    Suzanne Curmode?

12            A.     Yes.

13            Q.     Okay.   And you found that the  
14    level 2 use of mace was within policy; is that  
15    correct?

16            A.     Yes.   That's what I have down here,  
17    yes.

18            Q.     Okay.   And can you tell me what your  
19    process of review was to get to that  
20    conclusion?

21            A.     Well, the -- this is the routing sheet  
22    to the investigation, so I'm certain I reviewed  
23    the investigation that was attached to this.

24            Q.     Okay.   If -- I'm sorry.   You said that  
25    you would have reviewed the investigation?

1           A.    Yes, that would have been attached to  
2   the routing sheet.

3           Q.    Okay.

4           A.    These are routing sheets.  But you  
5   probably know that.  These are routing sheets.

6           Q.    Yes.

7                   And when you review an investigation,  
8   do you listen to the tapes and review the  
9   audio?

10          A.    If there's some available, yes.

11          Q.    Okay.  And do you ask follow-up  
12   questions if necessary?

13          A.    If I feel they're needed, yes.

14          Q.    Okay.  And do you remember asking any  
15   follow-up questions of any of the officers  
16   involved with Mr. Phillips?

17          A.    No, I don't remember.

18          Q.    Okay.  Could you have?

19          A.    Could I have asked the officers?

20          Q.    Yes.

21          A.    If I had a follow-up question, I would  
22   go with the chain of command.  I would send it  
23   back to the lieutenant to do the follow-up.  And  
24   he would, in turn, go to who he needed to go to  
25   to get any follow-up clarifications or answers.

1 Q. Okay. And did you do that?

2 A. I don't remember.

3 Q. Okay. And how many officers are you  
4 responsible for reviewing their use of force?

5 A. Anyone who works for me, is in my chain  
6 of command, I would be responsible for reviewing  
7 it. So currently a little over a hundred,  
8 110 maybe.

9 Q. Okay. And do you know the statistics  
10 on the use of force for the Columbus police  
11 department?

12 A. No.

13 Q. Do you review those numbers at all as  
14 part of your job?

15 MS. LLOYD: Objection as to form.

16 A. No.

17 BY MS. BRATTON:

18 Q. Okay. And are you aware whether or not  
19 there is any documents that detail use of force  
20 by officers?

21 MS. LLOYD: Objection as to form.

22 A. Internal affairs, I believe, does  
23 reports, documenting just different circumstances  
24 on various levels of force.

25 BY MS. BRATTON:



1 Q. Okay.

2 A. I think that's part of their job.

3 Q. Okay. And when you review the use of  
4 force, are you looking for whether the officer  
5 was acting within policy and training?

6 A. Yes.

7 Q. And as part of your review, do you also  
8 look to see if the policies in training are as  
9 clear as they can be?

10 MS. LLOYD: Objection as to form.

11 A. No.

12 BY MS. BRATTON:

13 Q. Okay. Do you recall a Department of  
14 Justice review of the Columbus police department  
15 in the 2000s?

16 A. I recall it.

17 Q. Okay. And were you on the force at  
18 that time?

19 A. Yes.

20 Q. Okay. And has there been any changes  
21 in the police force since that review that you've  
22 experienced when it comes to use of force?

23 MS. LLOYD: Objection as to form.

24 A. I'm not responsible for the policies  
25 governing those areas. Our policies change, not

1 all the time, but they do change in response to  
2 different things. So I don't feel I can really  
3 answer what came out of that or what didn't come  
4 out of that.

5 BY MS. BRATTON:

6 Q. Okay. What about any training that has  
7 been different?

8 MS. LLOYD: Objection as to form.

9 A. We're constantly doing training,  
10 service training updates, manual training.

11 BY MS. BRATTON:

12 Q. Do you know if any of that training is  
13 different than prior to the Department of Justice  
14 report?

15 A. I can't answer that.

16 Q. You can't answer because you don't  
17 know?

18 A. I -- that's not my area of expertise,  
19 of what training has changed and what reason. I  
20 don't work there, in that area.

21 Q. Do you know -- you -- you participate  
22 in the trainings, though, correct? You have to  
23 be trained?

24 A. Everyone is -- in-service training,  
25 yes.

1 Q. Okay. Based on your training, has  
2 anything changed from the time that -- in your  
3 training, that that report came out to now?

4 MS. LLOYD: Again, objection as to  
5 form, asked and answered.

6 A. I don't know.

7 BY MS. BRATTON:

8 Q. So I'm not asking if anything changed  
9 in response to it. I'm just asking, from the  
10 time it came out to September of 2014, did any of  
11 your training change, for whatever reason?

12 A. I don't remember time frames of  
13 training. We get -- we've gotten Tasers over the  
14 years. I don't know exact time frame of that.

15 So things change.

16 Q. Okay.

17 A. Whether it was pursuant to a certain  
18 event or a certain thing, I can't answer that.

19 Q. Okay. And officers are required to  
20 follow the constitutional standards for use of  
21 force, correct?

22 A. We follow our policies, yes.

23 Q. Okay. And do you expect your officers  
24 to do that?

25 A. To follow policy?

1 Q. Yes.

2 A. Yes.

3 Q. And this means that they have to comply  
4 with the Fourth Amendment standard on use of  
5 force?

6 A. Yes.

7 Q. Okay. And are your officers taught  
8 what that standard is?

9 A. Yes.

10 Q. And when are they permitted to use  
11 force?

12 MS. LLOYD: Objection as to form.

13 A. They're -- they're not to desist in  
14 doing their police work because someone offers  
15 resistance. So they could use force -- it's  
16 circumstantial, based on the suspect's actions,  
17 aggressiveness, the totality of the situation,  
18 severity of the crime. There's various factors  
19 that come into play when an officer decides to do  
20 that.

21 Reasonableness is probably a big part  
22 of it --

23 BY MS. BRATTON:

24 Q. Okay.

25 A. -- if not the main part.

1 Q. And when would an officer be able to  
2 use level 2 force --

3 MS. LLOYD: Objection as to form.

4 BY MS. BRATTON:

5 Q. -- on a suspect?

6 A. Level 2 use of mace -- again, it's kind  
7 of what I just said, to control a resistive or  
8 combative suspect, to protect others, to protect  
9 the officers, to protect the suspect, kind of  
10 like what I just answered to.

11 Q. Okay. Do your officers have  
12 de-escalation training, or is -- let me say this.  
13 Are officers trained in de-escalation  
14 techniques?

15 A. I'm not sure what you mean by  
16 de-escalation techniques.

17 Q. Are officers trained not to,  
18 themselves, escalate a situation with a compliant  
19 individual, suspect, or anyone who they stop?

20 MS. LLOYD: Objection to form.

21 A. Trained to not -- not escalate  
22 something?

23 BY MS. BRATTON:

24 Q. Yes.

25 A. I -- I don't think that the training to

1 not -- I don't know if you're -- I'm not sure  
2 exactly what you're -- how you're asking this.  
3 If you can clarify it, maybe, for me.

4 Q. Yes.

5 If someone is fully compliant, are  
6 officers trained that they can still use physical  
7 force on the person?

8 MS. LLOYD: Objection as to form, asked  
9 and answered.

10 A. If someone's fully compliant, one, the  
11 reason probably would not exist to use the force  
12 on them.

13 BY MS. BRATTON:

14 Q. Okay. And when you are reviewing use  
15 of force, what is policy that you're comparing  
16 the officer's use of force to in making a  
17 reasonableness determination?

18 A. I'm not sure what you mean. I'm  
19 sorry.

20 Q. When you determine that the use of  
21 force used in whatever situation --

22 A. Right.

23 Q. -- you're reviewing was reasonable or  
24 within policy --

25 A. Uh-huh.

1 Q. -- what policies are you looking to to  
2 make that determination?

3 A. We've got a couple different ones  
4 that --

5 Q. Okay.

6 A. -- govern the issue. There's a main  
7 use-of-force policy that are covered in the  
8 division directives that govern conduct. So  
9 there's a couple different ones that apply to  
10 that.

11 Q. Okay. If you could, look in here  
12 please. It will be Exhibit 10.

13 A. Exhibit 10?

14 (Off the record.)

15 BY MS. BRATTON:

16 Q. Exhibit 10, would that be one of the  
17 policies that you all use?

18 A. Yes. That's our use-of-force policy.

19 Q. Okay. And I'm sure this is going to  
20 sound silly, but --

21 A. Okay.

22 Q. -- you don't want officers using force  
23 if it's not within policy; is that correct?

24 A. No, we don't want people to do  
25 out-of-force uses of -- or out-of-policy uses of

1 force.

2 Q. Okay. And that could be because  
3 it's -- could harm the citizen, it could harm a  
4 fellow officer?

5 MS. LLOYD: Objection as to form.

6 A. There's many reasons why. You just  
7 don't want someone to act outside policy. There  
8 are policies for a reason. So --

9 BY MS. BRATTON:

10 Q. And the use-of-force policies -- do you  
11 know what the reasoning behind use-of-force  
12 policies are?

13 MS. LLOYD: Objection as to form.

14 A. The reason behind use-of-force  
15 policies?

16 Yes. You need to have a set of rules,  
17 per se, that govern your actions.

18 BY MS. BRATTON:

19 Q. Okay. And I guess that was what I was  
20 getting to. You don't want people using force  
21 that unnecessarily harms a citizen or a fellow  
22 officer?

23 MS. LLOYD: Objection as to form and  
24 mischaracterization of the policy.

25 A. We want to follow policy.



1 BY MS. BRATTON:

2 Q. I understand.

3 A. Okay.

4 Q. So I guess what I'm asking you is,  
5 use-of-force policy tells an officer --

6 A. Uh-huh.

7 Q. -- this is what you can do, basically,  
8 when you're confronted with this situation?

9 MS. LLOYD: Again, objection as to  
10 form. The policy speaks for itself.

11 BY MS. BRATTON:

12 Q. You can answer.

13 A. Okay. Can you ask the question again?

14 Q. Uh-huh.

15 So you have use-of-force policies.

16 A. Yes.

17 Q. And the use-of-force policies tell  
18 officers what they can do when faced with certain  
19 situations or resistance?

20 MS. LLOYD: Objection as to form.

21 A. Our policies govern uses of force.  
22 It's what officers comply with for uses of force.  
23 It's policy.

24 BY MS. BRATTON:

25 Q. And I guess I'm asking, what is the

1 importance of use-of-force policies?

2 MS. LLOYD: Okay. Again, objection,  
3 asked and answered several times.

4 A. Policies govern our uses of force. You  
5 have to have some type of a -- of a directive or  
6 a policy to guide the officers, what they adhere  
7 to on uses of force.

8 BY MS. BRATTON:

9 Q. And is that so that citizens and  
10 officers are protected?

11 MS. LLOYD: Again, asked and answered  
12 already.

13 A. We have to have policies. We have  
14 policies that govern everything we do. You have  
15 to have policies that direct uses of force.

16 BY MS. BRATTON:

17 Q. Okay. So I just want to make sure that  
18 I understand the answer. So the answer to the  
19 importance of use-of-force policies is just that,  
20 the department has to have policies to govern use  
21 of force?

22 MS. LLOYD: Objection as to  
23 characterization of her answer.

24 A. I was going to say, that's not what  
25 I -- that's not what I said.

1 BY MS. BRATTON:

2 Q. Okay. I'm sorry that I misunderstood.

3 I want to just make the record clear.

4 Because I guess I'm asking -- well, my  
5 question was -- is that -- does the department  
6 have use of force so that it governs an officer's  
7 actions to protect officers and to protect the  
8 public?

9 MS. LLOYD: Asked and answered.

10 A. They're not simply just so we have --  
11 so we can say we have a policy. They're clearly  
12 there for a reason, to make sure that the  
13 officers act in compliance with the law, with our  
14 policy, and to make sure that they properly apply  
15 the various continuum and the various levels of  
16 force.

17 BY MS. BRATTON:

18 Q. Okay. And why is it important that  
19 they comply with the continuum of force?

20 A. They need to ensure they use the  
21 correct level of force, given the circumstance,  
22 and that they act properly. They don't want to  
23 use more force than is necessary or less force  
24 than they maybe should be using, or it just -- it  
25 is to ensure that -- that they follow the policy

1 and that they do the right thing.

2 Q. Okay. And do officers need to assess  
3 situations prior to using force?

4 MS. LLOYD: Objection as to form.

5 A. What do you mean by assess?

6 BY MS. BRATTON:

7 Q. Do they need to determine whether or  
8 not a threat exists prior to using force?

9 MS. LLOYD: Objection as to form.

10 A. It would depend on the circumstances.  
11 Yes, they think about the circumstances. It's a  
12 quick decision oftentimes, but they think about  
13 the circumstances. They have to.

14 BY MS. BRATTON:

15 Q. Okay. And what factors do you want the  
16 officer to take into account before deciding  
17 whether or how much force to use?

18 A. Again, we need to look at the totality  
19 of circumstances, the actions of the suspect, the  
20 aggressiveness, the size of the suspect, the  
21 crime.

22 Again, I referenced these. There's a  
23 whole score of things that they think about when  
24 they look at -- it's just the whole totality of  
25 what's going on.

1 Q. Okay. And should your officers give  
2 commands prior to using force?

3 MS. LLOYD: Objection as to form.

4 A. What do you mean command? Could you  
5 give an example?

6 BY MS. BRATTON:

7 Q. Yes.

8 Step out of the car, should they give  
9 somebody -- if I give you a command, step out of  
10 the car, should an officer allow the person to  
11 step out of the car before pulling them out of  
12 the car?

13 MS. LLOYD: Objection as to form.

14 A. That's a tough question, because it all  
15 depends on the circumstances. Just saying, step  
16 out of the car, and they don't -- that doesn't  
17 really give me enough details to answer your  
18 question.

19 BY MS. BRATTON:

20 Q. Okay. So if -- if an officer wants a  
21 citizen to get out of the car, should they say,  
22 step out of the car, or should they open the door  
23 and just pull somebody out?

24 MS. LLOYD: Objection.

25 A. It depends, again, on what the

1 circumstances are.

2 BY MS. BRATTON:

3 Q. Okay. And if a citizen is being  
4 compliant, what would be the circumstance where  
5 you would pull somebody out of the car without  
6 saying anything to them?

7 A. We can take someone out of a car under  
8 nearly any circumstance. I mean, we could take  
9 them out of a car.

10 Q. Okay. So then you all are not trained  
11 to ask a citizen to step out of the car before  
12 you would --

13 A. Again, it depends on what the run is,  
14 what the stop's about, what the circumstances  
15 surrounding it are.

16 Q. Okay. Should officers give commands  
17 one at a time?

18 MS. LLOYD: Objection as to form.

19 A. One command at a time or one officer at  
20 a time?

21 BY MS. BRATTON:

22 Q. That's the next question.

23 A. I'm not sure --

24 Q. So the first is one command at a time.

25 A. Again, we don't have black-and-white

1 rules, and policing isn't like that. You have to  
2 gear your response to each situation --

3 Q. Okay.

4 A. -- and what's happening at a situation.

5 I can't answer that as a carte blanche,  
6 yes, we should or shouldn't do this, because it's  
7 so fluid.

8 Q. What about -- and this may be the same  
9 answer. But what about multiple officers giving  
10 multiple commands at the same time?

11 A. What about it? I mean --

12 Q. Should officers do that?

13 A. Again, there's no black-and-white on  
14 that.

15 Q. Okay.

16 A. It can happen, it may not happen.

17 Q. What about, should officers give  
18 conflicting commands?

19 MS. LLOYD: Objection as to form.

20 A. They shouldn't. But it doesn't  
21 necessarily mean that something may not come off  
22 as a conflicting order sometimes.

23 BY MS. BRATTON:

24 Q. And if an officer -- if one officer  
25 says, get on the ground, and another officer

1     says, don't move, and a suspect doesn't move,  
2     would that suspect not be complying with officer  
3     orders?

4             MS. LLOYD:  Objection as to form.

5             A.  Again, I can't -- it's tough to answer  
6     that not knowing the totality of what's going on  
7     prior to the suspect being told to do one thing  
8     or another.

9     BY MS. BRATTON:

10            Q.  If commands come in at the same time;  
11     somebody opens a car door and says, get out of  
12     the car, another officer, at the same time, says  
13     don't move, and the person just doesn't move --

14            A.  Okay.

15            Q.  -- is that -- the person, the citizen,  
16     who is not moving, because they received two  
17     commands -- get out of the car, don't move -- is  
18     that citizen then deemed to be not following  
19     officer commands?

20            MS. LLOYD:  Again, objection as to  
21     form, and asked and answered.

22            A.  Again, it's the totality of it.  
23     It's -- it's -- you can't go back on information  
24     not known at the time and try to judge what's  
25     going on.



1 I -- there are so many things on these  
2 stops, there's so many different circumstances, I  
3 can't answer a black-and-white, yes or no, this  
4 is right or this is not right, given the totality  
5 of something.

6 BY MS. BRATTON:

7 Q. Okay. If you were reviewing a case --  
8 and you said you look at the tape or listen to  
9 the video, whatever is part of the packet that's  
10 attached to the routing sheet --

11 A. Okay.

12 Q. -- and you were given -- officer A  
13 said, open up the car door, and said, get out of  
14 the car. Officer B is on the other side and  
15 says, don't move, how do you make the  
16 determination -- and the person is arrested for  
17 not following officer commands.

18 How do you make the determination about  
19 whether or not the officers' actions were within  
20 policy or not within policy, as it relates to the  
21 person's arrest?

22 MS. LLOYD: Again, objection as to form  
23 of the question. And objection as to a  
24 question I believe has now been asked and  
25 answered three times.

1           A.    I don't understand the question.  It  
2   was a multiple-parts question.

3   BY MS. BRATTON:

4           Q.    Uh-huh.

5           A.    And I don't want to answer one part  
6   and --

7           Q.    I got it.

8           A.    Can you break it down or give it to  
9   me --

10          Q.    Uh-huh.

11                So you have a complete packet of  
12   information.

13          A.    Uh-huh.

14          Q.    And that information comes in front of  
15   you for you to determine whether or not an  
16   officer was -- acted within or outside of policy,  
17   correct?

18          A.    Yes.

19          Q.    Okay.  And that packet of information  
20   contains a narrative or a video or whatever, what  
21   have you.  And that narrative or video has a  
22   suspect, officer opens up the suspect's car door,  
23   tells the suspect, get out.  Another officer  
24   says, don't move.  And the suspect is arrested.

25                And the issue at hand is whether or not

1 it was a proper arrest, based on not following  
2 commands.

3 How -- how would you make the  
4 determination whether or not it was within  
5 policy?

6 MS. LLOYD: Again, objection as to  
7 form, and as to multiple questions, and  
8 also, the mischaracterization of what a  
9 use-of-force investigation could be, not  
10 whether or not an arrest was lawful.

11 A. I don't know what the -- again, I don't  
12 know what the arrest was for that you're talking  
13 about in your -- in your scenario.

14 And it's the totality of it. Like the  
15 commands would not be -- I'd have to know more  
16 about each individual situation. Again, it --

17 BY MS. BRATTON:

18 Q. If someone was arrested for obstruction  
19 of justice for not following an officer's orders,  
20 and that suspect received conflicting commands,  
21 then how would you make the determination whether  
22 or not your officer acted within policy charging  
23 this person with obstruction for not following  
24 the command?

25 MS. LLOYD: Again, objection as to

1 form.

2 And I've said this before, and we've  
3 had lengthy testimony from the IAB sergeant,  
4 that internal affairs does not make a  
5 determination of whether an individual is  
6 actually guilty of a particular crime and  
7 whether or not a charge is lawful when this  
8 whole situation is going to be determined by  
9 a judge in a court.

10 There's been lengthy testimony as to  
11 what the parameters of an internal  
12 investigation are. And you are misstating  
13 and mischaracterizing what an internal  
14 investigation could be.

15 MS. BRATTON: One, I'm not asking about  
16 an internal investigation, I'm asking about  
17 her investigation, which can go through the  
18 internal chain of command or directly  
19 through her.

20 MS. LLOYD: You started off saying --

21 BY MS. BRATTON:

22 Q. And did you not say that internal can  
23 come through you or that an investigation can go  
24 through internal chain to come to you, or it can  
25 go through the officer's chain of command,

1 outside of internal, and come to you?

2 A. Are you talking about internal affairs  
3 when you say internal?

4 Q. Correct, internal affairs.

5 A. It depends on -- on the investigation.

6 Q. Okay. So --

7 A. Different things are done different  
8 ways.

9 Q. Okay. That -- that's the question.

10 So something doesn't have to go through  
11 internal affairs bureau for you to be able to  
12 review an officer's actions?

13 MS. LLOYD: Again, objection as to  
14 form.

15 We're talking about use-of-force  
16 investigations, or internal affairs  
17 investigations. We're not talking about the  
18 issue which is before a court of law.

19 MS. BRATTON: I'm asking about a stop  
20 and detention, not a use of force in this  
21 particular question.

22 MS. LLOYD: And that's not -- again,  
23 you are asking -- I believe your exact  
24 question was whether or not there's a  
25 determination that the individual should

1           have been charged with the crime he was  
2           charged with, which is not an issue that is  
3           subject under an internal investigation.

4           MS. BRATTON: No.

5 BY MS. BRATTON:

6           Q. My specific question was, how do you  
7           make the determination about whether or not the  
8           officer acted within policy when they gave  
9           conflicting commands --

10           MS. LLOYD: Well, that's not -- that  
11           was not the last question. But --

12           MS. BRATTON: Could you go back,  
13           please, and read my last question?

14           (The record was read.)

15           MS. LLOYD: That is exactly what I  
16           stated. Charging the individual, that's not  
17           something that's reviewable.

18 BY MS. BRATTON:

19           Q. Okay. So you all can't review anything  
20           that your officers charged a suspect with?

21           A. We review it, but I don't make the  
22           determination on a criminal charge.

23           Q. I understand about the -- whether or  
24           not the criminal charge is -- goes through  
25           process.

1                   But have you ever made a determination  
2   about whether or not a person should or should  
3   not have been charged with a particular crime?

4           A.    No.

5           Q.    Okay.

6           A.    You mean reinvestigation; no.

7           Q.    I'm sorry?

8           A.    You mean reinvestigation on that?  You  
9   mean, if I was redoing an investigation; is that  
10   what you're asking?

11          Q.    Have you ever -- I'm just asking, in  
12   your supervisory career, sergeant, lieutenant,  
13   and now commander --

14          A.    Yes.

15          Q.    -- have you ever looked at something  
16   and said, oh, I don't think this person should  
17   have been charged with this?

18                   MS. LLOYD:  Are you talking about --

19          A.    I don't remember.

20   BY MS. BRATTON:

21          Q.    Okay.  And if you could, go back to  
22   Exhibit 33.

23          A.    I don't think I have a 33.

24          Q.    It's that one.

25          A.    Oh.

1 Q. The date, it looks like, that you  
2 received it was 11/26/14?

3 A. Uh-huh.

4 Q. And then it says, Forwarded,  
5 11/26/14?

6 A. Yep.

7 Q. Okay. So you did the entire review in  
8 one day?

9 A. Well, I don't have the investigation  
10 here, but if those are the dates I put, yes, I  
11 would have received it and forwarded it on the  
12 same day.

13 Q. Okay. And when it's forwarded, where  
14 does it -- is this the forward to internal  
15 affairs bureau?

16 A. Yes, IAB, Internal Affairs Bureau.

17 Q. Okay. And then I'm assuming that IAB  
18 would do a -- an investigation as well?

19 MS. LLOYD: Your -- they've already  
20 done it.

21 A. This was sent to them for filing. This  
22 one's already been resolved. The investigation's  
23 been done. It was done by a chain-of-command  
24 investigation, this particular one, this routing  
25 sheet.



1 BY MS. BRATTON:

2 Q. Okay. So this -- this one wasn't done  
3 by IAB?

4 A. I don't have it here, but it doesn't  
5 appear, no. This is a use of force, level 2,  
6 that came through the chain of command.

7 Q. Okay. And then when you forwarded it  
8 to IAB, was that just for filing, or what was the  
9 purpose of forwarding it to IAB?

10 A. That's our policy to forward it to IAB.  
11 I'm sure they file it. I don't -- I've never  
12 worked there. So they may do other things with  
13 it. I don't know.

14 Q. Okay. And so just to be -- to be  
15 clear, because there was, I think, some  
16 objection. I want to make sure that the record  
17 is clear.

18 A. Okay.

19 Q. This particular routing sheet --

20 A. Uh-huh.

21 Q. -- is a level 2 use of force outside of  
22 the IAB chain of command?

23 A. This particular one, yes.

24 Q. Okay. And when you conducted your  
25 investigation, were you aware that Mr. Phillips

1 had filed a separate internal affairs complaint?

2 A. I don't remember.

3 Q. Okay. And do you remember -- well, if  
4 you don't remember if you filed it, you don't  
5 remember if you reviewed his complaint, then.

6 Do you -- did you watch the videos  
7 associated with Mr. Phillips' arrest?

8 A. I don't remember. If there were some,  
9 I did. But I don't remember if there were any  
10 attached with this investigation.

11 Q. Okay. Did you interview any of the  
12 officers that were involved?

13 A. No.

14 Q. Did you ask any clarifying questions to  
15 conflicting statements?

16 MS. LLOYD: Objection, asked and  
17 answered.

18 A. I don't remember.

19 BY MS. BRATTON:

20 Q. Did you do any follow-up after -- or  
21 have you ever followed up to see what your  
22 officers' testimony was in a criminal trial  
23 compared to what they wrote down on their  
24 use-of-force statements or --

25 A. No.

1 Q. Okay. And do you know whether, in this  
2 particular chain of command that's on the routing  
3 sheet, anyone else besides Sergeant Rector,  
4 Lieutenant -- I can't pronounce his name --

5 A. Eckenrode.

6 Q. -- Eckenrode, and yourself, prior to  
7 going to IAB, participated in or reviewed the  
8 incident with Mr. Phillips?

9 A. Oh, I don't know.

10 Q. Okay. Would they be on here if anyone  
11 else reviewed it?

12 A. With -- you mean with him personally  
13 or --

14 Q. Yes.

15 A. -- in --

16 Q. I'm sorry; this particular incident  
17 that is the subject of the routing sheet.

18 A. Okay. Can you ask it again,  
19 because I --

20 Q. Yeah.

21 A. -- I -- are you saying did I talk with  
22 him personally --

23 Q. No.

24 A. -- or reviewed --

25 Q. I'm sorry.

1 A. -- this investigation?

2 Q. This particular investigation --

3 A. Yes.

4 Q. -- would anyone else who is not on this  
5 routing sheet have reviewed the investigation?

6 A. Someone else may have read it, but I  
7 don't know.

8 Q. Okay.

9 A. And likely, because they would be on  
10 here, but --

11 Q. Okay. And can you take me through your  
12 normal review process when you get an  
13 investigation?

14 A. Well, depending on the investigation,  
15 obviously, I would read the routing sheet, the  
16 recommendations, any attachment, any documents,  
17 any audio, video, anything else that's attached  
18 to the investigation.

19 Q. Okay. And then if you see a  
20 discrepancy in two or three officers' statements,  
21 what would you do at that point?

22 A. As I said, if I see an issue with the  
23 investigation, as done, I would refer it back to  
24 the chain of command, back down to the  
25 lieutenant, give them what my concerns or

1 questions were for clarification.

2 Q. Okay. And that didn't happen in the  
3 investigation, correct?

4 A. I don't remember.

5 Q. Okay. Would it be on the routing sheet  
6 if it went back? Like under remarks, would it  
7 say, go back and look at one -- Officer A's  
8 testimony compared to Officer B's?

9 A. It could. Depending on what it was, it  
10 could. It could, but not necessarily.

11 Q. Would there be a writing? Would there  
12 be like an e-mail, go back and look?

13 A. Myself, if I had a question with  
14 something, a lot of times I will talk personally  
15 to the person, the lieutenant, the serg -- well,  
16 in this case, it would be the lieutenant,  
17 following the chain of command principles, just  
18 because I'd rather have a face-to-face than an  
19 e-mail. That way question's going to be answered  
20 right then and there and clarification is  
21 given --

22 Q. Okay.

23 A. -- rather that bantering back and  
24 forth.

25 That's just my style. There's no set

1 rule on that.

2 Q. Okay. And then, I guess, in that  
3 instance, would there not be any documentation of  
4 whatever clarification that you needed or --

5 MS. LLOYD: Objection as to form.

6 A. It depends. If I asked for it,  
7 typically, there will be some type of  
8 clarification given.

9 BY MS. BRATTON:

10 Q. Okay. I guess the question that I'm  
11 asking is if, in the entire investigation, there  
12 is not a piece of paper that says, go look back  
13 at officer A's statement, go look back at  
14 officer B's statement, what happened here; that  
15 it's a reasonable assumption that you didn't send  
16 it back for additional follow-up?

17 MS. LLOYD: Objection as to form.

18 A. In this one you're talking about?

19 BY MS. BRATTON:

20 Q. Yes.

21 A. Okay. What -- what exactly are you  
22 asking about this one?

23 Q. So in the investigation, if there is  
24 nothing from you to an officer about a follow-up,  
25 is it reasonable for you to assume that there

1 was -- that it didn't go back for further  
2 investigation?

3 A. No, I don't think it's reasonable to  
4 assume that.

5 I don't remember in this particular --  
6 if it happened or not.

7 Q. Okay. And why did you come to the  
8 conclusion that all officers' actions were within  
9 policy in this case?

10 MS. LLOYD: Where -- which line was  
11 that?

12 MS. BRATTON: Level 2 mace within  
13 policy.

14 MS. LLOYD: Where does it say all  
15 officers? There's only one use of mace.

16 BY MS. BRATTON:

17 Q. So let me -- did you only review, then,  
18 the use of force, level 2 mace?

19 A. If that's what's attached to this, yes.  
20 I have not seen --

21 Q. Okay. Let me -- okay. If you could,  
22 turn to Exhibit 2, and then that's Exhibit 2,  
23 right there.

24 A. Gotcha.

25 Q. At the bottom of the page there will be

1 a Bates number that starts with GB.

2 A. Yes.

3 Q. Could you turn is GB784?

4 A. 784?

5 Q. Yes.

6 A. Okay.

7 Q. When you conduct an investigation -- or  
8 I'm sorry -- review, do you have the incident  
9 detail?

10 MS. LLOYD: Again, objection as to  
11 form.

12 And identification of -- this exhibit  
13 has not been identified for her.

14 A. Yeah. I'm not sure what I'm looking  
15 at. It looks like a radio run printout.

16 BY MS. BRATTON:

17 Q. Okay. This is the radio run for  
18 2756 Sullivant Avenue incident --

19 A. Okay.

20 Q. -- for Mr. Phillips.

21 A. Okay.

22 Q. And do you have the -- when you do a  
23 review, the -- the printout of the run that the  
24 officer was on?

25 MS. LLOYD: Again, objection as to



1 form.

2 A. If it's in the packet, I will look at  
3 it, yes.

4 BY MS. BRATTON:

5 Q. Okay. And what about the officer  
6 written statements?

7 A. If they're in the packet, I would  
8 review the entire packet.

9 Q. Okay. So before I play Exhibit 3,  
10 would -- and based on this routing sheet, would  
11 you have only been looking at the use of force,  
12 or would your review have been over the entire --  
13 all of the circumstances surrounding  
14 Mr. Phillips' stop, through the use of force?

15 A. I would review what's in the  
16 investigation that I received.

17 Q. Okay. So if in the investigation it  
18 has, this is why we stopped him, this is what  
19 happened when he stopped him, this is what we  
20 arrested and charged him with, this is the use of  
21 force -- when you review the packet, if all of  
22 that is in there, what part are you reviewing for  
23 whether or not the officers followed policy?

24 MS. LLOYD: Again, objection as to form  
25 and as to what it is she's reviewing.

1           A.    I review what's -- every -- I review  
2   the packet that's presented to me --

3   BY MS. BRATTON:

4           Q.    Okay.  And when you --

5           A.    -- the entire packet.

6           Q.    And when you review the packet -- so  
7   here, at the top of the routing sheet,  
8   Exhibit 33 --

9           A.    Yes.

10          Q.    -- it says, Subject, Use of Force,  
11   Level II, Mace.  It has the incident number,  
12   slash, injury to prisoner.

13          A.    Uh-huh.

14          Q.    So when you are looking at whether  
15   officer violated policy, are you only looking at  
16   the level 2 use of force, mace, or when you read  
17   all your officers' statements, are you looking at  
18   whether or not policy was followed all the way  
19   through, from the beginning of the interaction to  
20   the use of force and the end of the interaction?

21                MS. LLOYD:  Excuse me.

22                Objection as to form.

23                And we're going to have a problem here.  
24   You're presenting her with a use-of-force  
25   chain-of-command investigation.  It's

1           already been established this is chain of  
2           command on the officer who completed a  
3           use-of-force report. So you're mixing  
4           apples and oranges here with your  
5           questioning.

6                   MS. BRATTON: No.

7 BY MS. BRATTON:

8           Q. I'm asking you whether or not, if you  
9           get a packet and your packet just doesn't have in  
10          it, I sprayed somebody in the face with mace, it  
11          will -- I would -- presumably, it will start, I  
12          came into contact on --

13                   MS. LLOYD: Again, objection as to  
14          form.

15 BY MS. BRATTON:

16          Q. -- September 1st with subject A.  
17          Subject A resisted. I maced the person.

18                   MS. LLOYD: Objection to form.

19 BY MS. BRATTON:

20          Q. Do you only look at, I maced the  
21          person, or do you look at the entire officer  
22          statement and make a determination about whether  
23          every action in that officer's statement was  
24          within policy?

25          A. I need to look at the entire packet to

1     make a determination if this use of force, mace,  
2     was within policy.

3           Q.     Okay.

4           A.     I don't just read one paragraph. I  
5     look at the entire packet that's presented to  
6     me.

7           Q.     Okay. And if there is a question  
8     beyond the use of mace, do you have the ability  
9     to follow up on that?

10          A.     If I have a question or I need  
11     clarification, as I said, yeah, I would send it  
12     back to the lieutenant --

13          Q.     Okay.

14          A.     -- or contact a lieutenant for -- to  
15     say, hey, I have this concern, there's  
16     clarification needed.

17          Q.     Okay. So you have the ability, in your  
18     chain of command, to ask a question that doesn't  
19     deal specifically with use of force?

20          A.     Yes, on -- yeah. Yes.

21          Q.     Okay.

22          A.     Yes.

23          Q.     Okay. I am about to play what's been  
24     previously marked Exhibit 3. It's the radio  
25     dispatch.

1 A. Okay.

2 Q. And I will play --

3 MS. LLOYD: Could you explain, what is  
4 this that we're seeing? What is that part  
5 of, Exhibit 3? What is that part of?

6 MS. BRATTON: I just said the radio  
7 dispatch.

8 MS. LLOYD: Which is part of the -- is  
9 it part of the use-of-force report?

10 MS. BRATTON: Yes.

11 MS. LLOYD: Part of the use-of-force  
12 investigation?

13 MS. BRATTON: Yes.

14 MS. LLOYD: Where is that? You were  
15 saying -- isn't this the IAB investigation  
16 that you're presenting to her?

17 MS. BRATTON: No.

18 MS. LLOYD: Okay. Is it not?

19 MS. BRATTON: This routing --

20 MS. LLOYD: Is Exhibit 3 that we're  
21 looking at here the IAB investigation?

22 MS. BRATTON: No. Exhibit 3 is the  
23 radio run itself, not the IAB --

24 MS. LLOYD: Okay.

25 BY MS. BRATTON:

1 Q. I am going to play what has been --

2 MS. BRATTON: Actually, if we could  
3 take a break for a minute.

4 (A recess was taken from 10:09 to  
5 10:12.)

6 BY MS. BRATTON:

7 Q. I'm going to play for you what has been  
8 previously marked as Deposition Exhibit 3.

9 A. Okay.

10 Q. It is the dispatch from the radio run  
11 that was involved -- the burglary dispatch  
12 involved in the incident with Mr. Phillips.

13 A. Okay.

14 Q. And I'm going to play the recording at  
15 22 hours, 44 minutes, and 22 seconds.

16 (Audio was played.)

17 BY MS. BRATTON:

18 Q. And then I'm going to play 22 hours,  
19 45 minutes, 32 seconds, of Exhibit 3.

20 (Audio was played.)

21 BY MS. BRATTON:

22 Q. So if you had listened to the  
23 recording, and the -- Mr. Phillips and his  
24 passenger did not match the description of the  
25 subjects that were described by dispatch, would

1     you have asked a follow-up question?

2                   MS. LLOYD: Again, objection as to form  
3             and lack of any connection as to what this  
4             officer had testified to in connection with  
5             her chain-of-command use of force.

6             A. Can you ask the question again?

7     BY MS. BRATTON:

8             Q. Yes.

9                   If you had listened to the audio and  
10            looked at the officer statements, and the officer  
11            statements -- I'm sorry -- the radio dispatch and  
12            the actual suspects -- so Mr. Phillips and  
13            Mr. Phillips' passenger did not match the  
14            description provided by dispatch, would you have  
15            asked a follow-up question?

16                   MS. LLOYD: Again, objection as to form  
17            and as to what it is we're talking about  
18            here. You're pluralizing officers when  
19            there's no pluralizing in this document.

20            A. The radio room information -- it's very  
21            difficult to answer that question, because I'm  
22            not at the scene. I'm not -- the lighting, I'm  
23            assuming it's dark out, it's 10:30 at night.  
24            It's -- it's impossible for me to answer that  
25            question.

1           A radio room information isn't always  
2   what's happening out there. When someone calls  
3   in -- a citizen calls in, a lot of times there's  
4   so much more to what the officers are seeing that  
5   plays into their decision-making and what actions  
6   they take.

7           It's very difficult to answer that  
8   question.

9   BY MS. BRATTON:

10       Q.   Okay. If the location of the suspect  
11   that's stopped is not the same that dispatch  
12   reported, and the race and clothing is not the  
13   same as dispatch reported, and dispatch reported  
14   that all of the suspects were back inside of  
15   building, what would you, in a determination that  
16   you were making in reviewing a packet, that the  
17   officers had reasonable articulable suspicion to  
18   stop -- if you were making that determination,  
19   what questions would you have of the officers if  
20   none of those things matched about why they  
21   stopped an individual?

22       MS. LLOYD: Again, I'm going to object.  
23       I'm going to object as to speculation and  
24       object as to what appears to be an attempt  
25       to mischaracterize what Commander Curmode's



1           role was in this situation.

2           MS. BRATTON: And I'm -- for the  
3           record, Counsel has asked a hypothetical  
4           question with facts about what or how  
5           Commander Curmode, who makes decisions -- is  
6           a final decision-maker -- how she goes about  
7           those decisions, what she uses to make those  
8           decisions.

9           Counsel is able to ask those questions.

10          Counsel is not asking the specific  
11          facts about this case. Counsel is asking  
12          the witness how the witness goes about her  
13          decision-making when deciding whether or not  
14          to -- to say that an action was within or  
15          without policy, whether or not it's use of  
16          force, whether it's a stop investigation.

17       BY MS. BRATTON:

18          Q. So that's the question that I'm asking  
19          you. Because you don't only investigate use of  
20          force.

21          MS. LLOYD: All right. Then I'm going  
22          to object to the form of the question.

23       BY MS. BRATTON:

24          Q. I'm sure you don't remember what --

25          A. Well, at this point, probably -- your

1 questions are really long. And there are a lot  
2 of parts to the question.

3 BY MS. BRATTON:

4 Q. Yeah.

5 A. So if I'm asking you to repeat it,  
6 that's why.

7 Q. No, I understand.

8 A. Deciding if something's in conformance  
9 with policy, again, you look at the totality of  
10 it.

11 Looking at radio dispatch information,  
12 that's fluid. Suspects are not always where they  
13 were when it was called into radio. They move,  
14 they change, things change. You would go with  
15 the information that's presented from the  
16 sergeant or the supervisor's investigation, and  
17 if that's included, then you look at it.

18 But, again, the radio dispatch  
19 information is coming from various sources, and  
20 it changes and things happen at the scene. So  
21 it's a hypothetical, but it's almost too broad to  
22 answer.

23 Each situation would have a different  
24 answer, because it's just the way police work  
25 works.

1 Q. Okay. So I'll be specific to  
2 Mr. Phillips' situation with facts that have been  
3 developed throughout the depositions in this  
4 case.

5 A. Okay.

6 Q. So radio dispatch calls in what you  
7 just heard, two white males -- a black female  
8 with an orange wrap around her head and shorts,  
9 two white males, one with a gray coat, loading  
10 items into an unknown vehicle in the back or the  
11 rear of the bar.

12 So that's the initial radio dispatch.

13 MS. LLOYD: Again, objection as to  
14 characterization of the dispatch.

15 BY MS. BRATTON:

16 Q. Do you want me to play it again?

17 A. You can play it --

18 Q. Okay.

19 A. Well, no, you don't have to. I mean,  
20 I'm not sure what exactly -- it's hard to hear  
21 some of it. I'm not sure exactly the time  
22 frames. There's so much to it --

23 BY MS. BRATTON:

24 Q. Okay.

25 A. -- that -- and, again, descriptions are

1     called in. A lot of times it's just a -- a kind  
2     of a guide for the officers to start the run.

3             But there's so many things that  
4     happened at the scene and so many other  
5     perceptions and changes that happen from the time  
6     it's called in.

7             I don't know what time it was called in  
8     and the time frame. There's so many variables to  
9     this that I can't --

10            Q.    Okay. So that wasn't necessarily going  
11     to be my question, but --

12            A.    Okay.

13            Q.    So I will play the recording again so  
14     that we can get the suspect -- unless --

15            A.    You don't have to play it again.

16            Q.    Okay.

17            A.    I mean --

18            Q.    So that's the --

19            THE WITNESS: Unless you -- I'm not  
20     sure --

21            MS. LLOYD: I don't know what the  
22     question is going to be.

23            A.    Yeah. I don't know really what I'm --  
24     what --

25     BY MS. BRATTON:

1 Q. Okay.

2 A. -- I'm listening to. And it's very  
3 garbled. I'm not sure who's what call number.  
4 So I'm not really sure who was dispatched --  
5 whose radio was listening to that. It's not a  
6 clear recording.

7 Q. So Officer Blair has testified that she  
8 didn't even run lights and sirens because she was  
9 there in the alley of where the incident took  
10 place. So it took her seconds, a matter of  
11 seconds, to get to the location.

12 MS. LLOYD: Again, objection. You'll  
13 have to ask her to assume a fact she -- this  
14 woman can't possibly know what another  
15 officer has testified to.

16 BY MS. BRATTON:

17 Q. Okay. You can assume that I'm telling  
18 you the truth --

19 MS. LLOYD: No --

20 BY MS. BRATTON:

21 Q. -- and --

22 MS. LLOYD: -- you cannot assume.

23 BY MS. BRATTON:

24 Q. You can assume that I'm telling you the  
25 truth. And based on your counsel's behavior, you

1 can assume that if I say something false, that  
2 she will call me on it.

3 So I am saying that Officer Blair  
4 testified -- you can assume it, you can believe  
5 it or not.

6 But if Officer Blair testified that she  
7 was seconds away; the call was to -- a car in the  
8 rear of the building; Mr. Phillips was on an  
9 opposite, one-way street that was the side, not  
10 the rear of the building; and Mr. Phillips is a  
11 black man with a white woman; the white woman has  
12 on black pants, nothing on her head; and  
13 Mr. Phillips does not have on a coat; and  
14 Mr. Phillips is driving a pickup truck and  
15 there's no vehicle description, would you have --  
16 in the course of your investigation, would you  
17 have any questions of your officers at all; why  
18 did you stop them?

19 MS. LLOYD: Objection as to the form of  
20 that question. And objection if counsel is  
21 representing that that was Officer Blair's  
22 testimony, the entirety of that question;  
23 which definitely it was not.

24 BY MS. BRATTON:

25 Q. Officer Blair's testimony was how long

1     it took her to get somewhere, which was a matter  
2     of seconds.

3                 The other came from -- the description  
4     of the suspects came from the radio dispatch, and  
5     the other is Mr. Phillips is a black male.

6                 I can play the video for you, that the  
7     suspect was a white -- or his passenger was a  
8     white woman with black pants on.

9                 But I'm just asking you, in general,  
10    whether or not these facts would be -- true or  
11    not, if those facts were true, and they were  
12    before you -- that a suspect's location, within a  
13    matter of seconds of something being called in  
14    that the officer receives the call to the time  
15    they get there, in a matter of seconds, if the  
16    car is not in the right place, if the people are  
17    completely different races, the number of people  
18    is different, the clothing is different -- would  
19    you have any follow-up whatsoever?

20                This is just a general question:  Would  
21    you have followed up, hey, what was your reason  
22    for stopping this person, because I notice these  
23    things don't match up?

24                MS. LLOYD:  Objection as to form --  
25                complicated form of that question and the

1 extreme hypothetical.

2 A. Again, as I said, the officer is going  
3 to look at what they're seeing, the totality of  
4 it. The radio dispatch is a portion to guide  
5 their response to the run, but there's so much to  
6 that.

7 Now I can't even begin to second-guess  
8 what they saw physically at the scene, after the  
9 fact.

10 BY MS. BRATTON:

11 Q. I understand. Well, I guess my  
12 question is, would you ask them why they did it.  
13 That -- not second-guess what they did, but if  
14 you --

15 A. If I saw a discrepancy, I would. But  
16 I -- I don't -- again, descriptions are never --  
17 are often not as accurate as they could be. It's  
18 a guide for the officers; the person calling in,  
19 it's a guide.

20 It's night. He is a light-skinned  
21 individual. I'm not going -- like I said, I'm  
22 not going to second-guess what the officers did  
23 or saw at the scene.

24 Q. So then --

25 A. I wasn't at the scene.



1           Q.    Okay.  So then would officers,  
2   according to your training -- because a dispatch  
3   may be wrong, can an officer then just stop  
4   anybody walking down the street because they're  
5   in the vicinity, whether or not they match any  
6   description whatsoever?

7                   MS. LLOYD:  Objection as to the form of  
8           the question.

9           A.    Well, obviously, you know the answer to  
10   that.  You don't have to ask me that.

11                   They cannot stop anyone for any reason

12                   And like I said, it's a guide.  It's --  
13   it's a guide to them.  The radio calls are a  
14   guide to take -- to build on to complete the run  
15   or to follow through on the run.

16                   I wasn't there.  I cannot tell you what  
17   they saw or what they didn't see or what may have  
18   changed, how long ago the call came in, all kinds  
19   of variables that are difficult to second-guess,  
20   after the fact.

21   BY MS. BRATTON:

22           Q.    Right.  And so that's kind of my  
23   question.

24                   There's one end of the spectrum, you  
25   can't stop just anybody walking down the street.

1 On the other end of the spectrum, if people are  
2 on the street and they don't match any of the  
3 description, how do you -- how do you determine,  
4 if you are reviewing whether an officer's -- let  
5 me go back.

6 An officer would be outside of policy  
7 if they just stopped a person for no reason,  
8 walking down the street, and detained them; is  
9 that accurate?

10 A. There was no reason whatsoever?

11 Q. Yes.

12 A. They can initiate a conversation, but,  
13 yeah, they do not detain them.

14 Q. Okay. And so the person would be free  
15 to leave if they wanted to?

16 A. Correct.

17 Q. Okay. And then on the other end of the  
18 spectrum, if the officer has reasonable suspicion  
19 to detain, then they're allowed to talk to that  
20 person to dispel whatever suspicions -- or to  
21 detain that person?

22 A. Right.

23 Q. Okay. So if you're investigating  
24 between those two spectrums, a citizen on one  
25 side saying, I'm walking down the street, they

1 don't have any reason to stop me, and an officer  
2 saying, no, I had a reasonable -- I can tell you  
3 why I stopped them, those two spectrums, if you  
4 have in front of you that the person -- the  
5 location doesn't match, the person's description  
6 doesn't match, the only thing that matches is  
7 that they're on that street, what -- what do you  
8 do to determine whether or not the officer's  
9 actions were outside of policy; which the citizen  
10 is saying, you shouldn't have stopped me, or  
11 their actions are within policy, where the  
12 officer is saying, I had reasonable suspicion?

13 MS. LLOYD: Objection as to that  
14 question, the form of it, the vagueness, and  
15 the over --

16 A. Again, I would look at the  
17 investigation. If there were any questions, I  
18 would ask for clarification.

19 BY MS. BRATTON:

20 Q. So -- so I guess, just sitting here  
21 today, would you have any questions if, if the  
22 individual was stopped -- and I understand that  
23 dispatch may or may not be correct, but if the  
24 only fact that matches up specifically is that  
25 person was on the street, same street, that is

1     literally the only fact that matches up, is this  
2     individual is on the street, would you have any  
3     follow-up questions?

4             MS. LLOYD:  Objection as to form.

5             A.  Can you ask the second part again?

6     BY MS. BRATTON:

7             Q.  Yeah.

8             A.  Your questions your very lengthy.

9             Q.  So --

10            A.  And, as I said, they're multi --

11            Q.  Uh-huh.

12            A.  -- parts.

13            Q.  Yes.

14                    So an officer -- we've already  
15     established that an officer cannot stop anybody  
16     walking down the street.

17                    If a dispatch comes in, and the only  
18     fact that matches with dispatch is that the  
19     person is near the location, would you have any  
20     follow-up questions for your officers as to why  
21     that individual was stopped?

22                    MS. LLOYD:  Again, objection as to  
23     form.  And we've been over this several  
24     times now.

25                    As far as Commander Curmode's role,

1           what is it that she's being presented with  
2           in her packet?

3           A.    I assume you're talking hypothetical.

4                   Rarely is that the only reason that's  
5   coming out.  Rarely is that the only thing that  
6   would be presented in the packet, that they just  
7   stopped somebody in the street.

8   BY MS. BRATTON:

9           Q.    Okay.  You said when you get a  
10   packet --

11          A.    Uh-huh.

12          Q.    -- you read all of the report.  If  
13   there's audio, you listen to the audio, if  
14   there's video, you watch the video --

15          A.    Uh-huh.

16          Q.    -- right?

17                   So you look at everything?

18          A.    Uh-huh.

19          Q.    Okay.  So if you're reading through,  
20   and you see, I, you know, stopped this individual  
21   to investigate something.  And you listen to the  
22   dispatch and nothing matches the person who was  
23   stopped except that they were near the location,  
24   would you have follow-up questions?

25                   MS. LLOYD:  Objection as to form.

1           A.    Again, there is a totality of a  
2   situation.  And it's -- if I saw a problem in any  
3   investigation that I felt didn't look right or  
4   needed follow-up or maybe was not clear, I would  
5   ask for follow-up.

6   BY MS. BRATTON:

7           Q.    Okay.  So dispatch called Mr. Phillips'  
8   truck -- or actually, not his truck, because it  
9   wasn't him -- called and -- that there was an  
10  unknown vehicle loading items into the rear of  
11  the bar.

12                   MS. LLOYD:  Again, objection as to form  
13           and mischaracterization of unknown vehicle.

14  BY MS. BRATTON:

15           Q.    I'm going to play Exhibit 3, 22 hours,  
16  44 minutes, and 22 seconds.

17           A.    Is that the one we listened to already?

18           Q.    Yes.

19                   (Audio was played.)

20  BY MS. BRATTON:

21           Q.    Okay.  So from that dispatch, can we  
22  agree that dispatch called in, suspects are  
23  loading items into an unknown vehicle in the rear  
24  of the closed bar?

25           A.    No.  Dispatch didn't call that in.

1 Q. I'm sorry. Dispatch radioed that to  
2 officers.

3 A. They radioed that, yes.

4 Q. Okay; and that the suspects were two  
5 white men, one black woman. The white man -- one  
6 of the white men has on a gray coat. The black  
7 woman has an orange head wrap and shorts.

8 MS. LLOYD: What is the question?

9 BY MS. BRATTON:

10 Q. Can we agree that that is what dispatch  
11 just radioed to the officers?

12 A. That's the information that they put  
13 there.

14 Q. Okay.

15 A. I don't know where they got it from.  
16 So --

17 Q. Yes. But I'm just saying, that's what  
18 was given to the officers.

19 A. I'm hearing that on the radio.

20 Q. Yes.

21 A. I'm hearing that on your recording.

22 Q. Okay. And if Mr. Phillips was parked,  
23 not on the rear of the building --

24 A. Uh-huh.

25 Q. -- but on the side of the building --

1           A.    Uh-huh.

2           Q.    -- or driving down the street --  
3    there's a dispute, parked on or drove down -- the  
4    side of the building, not the rear; and  
5    Mr. Phillips is black, and we've established he's  
6    light-skinned -- black on the record -- his  
7    passenger is white; his passenger does not have a  
8    head wrap; his passenger has on pants; and  
9    Mr. Phillips does not have on a coat -- what, if  
10   any, follow-up questions would you have if the  
11   only thing that matched in that situation is  
12   Mr. Phillips is near the dispatch location?

13               MS. LLOYD:  Again, objection as to  
14   form.

15               Are we talking about a hypothetical  
16   here?  Because, obviously, we know there are  
17   many more circumstances to this particular  
18   incident.

19   BY MS. BRATTON:

20           Q.    The initial stop itself, this is what  
21   the officers have, is what dispatch gave them.

22           A.    Again, there's more to than what is --  
23   dispatch is giving.

24               They said they didn't know what kind of  
25   a car it was being loaded into.  The caller



1     couldn't see that.

2             Q.     Yes.

3             A.     So the officers have to take the  
4     information, the limited information, given from  
5     dispatch, along with everything else that they're  
6     seeing at the time. And things change. Head  
7     wraps can be taken off. If they're in a car, you  
8     don't know what they're wearing from the waist  
9     down. It's 10:30 at night.

10            There's so many variables to police  
11     work that the officers have to make calls on,  
12     judgement calls on, at the scene, that going back  
13     and saying, yes, this can happen, this should  
14     have happened, or whatever, after the fact is  
15     difficult if not impossible; looking at  
16     everything after the fact, not being at the  
17     scene, not seeing everything that they're looking  
18     at and that they're experiencing.

19            Q.     So my question is not that.

20            My question is, would you ask follow-up  
21     questions so that you can get to that conclusion  
22     that there were other factors that the officer  
23     considered?

24            MS. LLOYD: Again, objection as to the  
25     repeated asking her about follow-up

1           questions, when we've established her role  
2           is that she's reviewing an entire packet in  
3           this hypothetical, that she's reviewing an  
4           entire packet of information.

5           And she has repeatedly said, if she had  
6           questions, she would ask.

7           A.    I mean, I understand police, and I  
8           understand the totality of it, and I understand  
9           that what they're acting upon is what they see  
10          and what they're -- what they're doing at the  
11          scene.

12          So if I had questions, I would ask  
13          them. But I'm not only reading the packet, I'm  
14          going on my experience as a supervisor and  
15          knowing that there's so many variables leading  
16          into it.

17        BY MS. BRATTON:

18          Q.    When officers write a report, is their  
19          report supposed to contain as much detail as  
20          possible about the stop or about the incident?

21          MS. LLOYD: Objection as to form.

22          A.    It's kind of vague. What report? What  
23          kind -- report's a big term.

24        BY MS. BRATTON:

25          Q.    Arrest --

1 A. What are you talking about?

2 Q. An arrest or incident report.

3 A. Which one?

4 Q. Incident report first.

5 A. Okay. It depends on the incident  
6 report what information goes in. A lot of it has  
7 check-boxes and things like that. So you have to  
8 be more specific.

9 I mean, they -- all the details that  
10 they can find, all the details that are  
11 available, yes. But certain ones ask for  
12 different details.

13 Q. Okay. And would the race of the  
14 suspect, any passengers, would that -- would  
15 those things be expected to be included in the  
16 incident report?

17 MS. LLOYD: Objection as to form.

18 A. Yeah. I'm not sure what you mean by  
19 incident report.

20 BY MS. BRATTON:

21 Q. If -- if an officer stops someone for  
22 an investigation, they're investigating someone,  
23 and that investigation turns into an arrest --

24 A. Uh-huh.

25 Q. -- are the officers expected to detail

1 in their incident report what led up to that  
2 arrest -- what led up to that arrest?

3 A. Well, you're talking -- in that case,  
4 if there's an arrest made, you're talking about  
5 an arrest report, not an incident report.

6 Are you talking about the arrest  
7 information form?

8 Q. Okay. So, I guess, let me go back.

9 What's the difference between an  
10 incident and --

11 A. I'm not sure what you're talking about,  
12 about incident report. I'm not really clear on  
13 what you're -- what -- can you give me an example  
14 of what the incident report is that you're  
15 talking about? I mean, I know we have a lot of  
16 forms.

17 Q. If we go to Exhibit 2, 790. So I guess  
18 she titles this Arrest Summary.

19 MS. LLOYD: Yes.

20 What is it you want her to --

21 BY MS. BRATTON:

22 Q. I'm -- I'm asking, would this be what  
23 is an incident report or an arrest --

24 A. It would be -- it says, Arrest --

25 Q. -- summary?

1           A.    -- Summary.  So I'm assuming it's the  
2 details for the arrest information form.

3           Q.    Okay.

4           A.    And I didn't -- I'm not really sure.  I  
5 didn't write it, so I'm not really sure.

6           Q.    And then when you all write arrest  
7 summaries, are you all trained on when -- what  
8 information should be included in the  
9 summaries?

10          A.    Yes, in the arrest summary training.

11          Q.    Okay.  And in your summary training,  
12 should suspect descriptions be included?

13                MS. LLOYD:  Objection to form.

14          A.    The arrested suspects?  I mean, I'm not  
15 sure what you're asking me.

16          BY MS. BRATTON:

17          Q.    Yes, arrested sus -- well, yes,  
18 arrested suspects.

19          A.    Yeah, I believe there's a place for  
20 race of the arrested -- of the arrestee.

21          Q.    Okay.  And what about if dispatch  
22 information was provided and it differed from  
23 whom they arrested, should --

24                MS. LLOYD:  Objection.

25          BY MS. BRATTON:

1 Q. -- that be in there?

2 MS. LLOYD: Objection to form.

3 A. Again, as I said, it can differ. It's  
4 a lot more than just what dispatch put out when  
5 an officer decides to make an arrest. There's  
6 just a lot more surrounding circumstances.

7 So it can differ.

8 BY MS. BRATTON:

9 Q. Okay. So are they expected, though --  
10 then should they not -- are they trained to put  
11 in what dispatch said, even if it differs, or is  
12 that not something that they need to bother with?

13 MS. LLOYD: Again, objection as to form  
14 of that question.

15 A. I mean, it depends on circumstance. If  
16 it's something they feel is pertinent to put into  
17 here, they would put it in.

18 This is -- hypothetically, it's so  
19 difficult to go back and determine what the  
20 thought process was when they were making the  
21 arrest.

22 BY MS. BRATTON:

23 Q. Okay.

24 A. There's no rule that says that  
25 dispatch -- from -- has to go in there. But if

1 it had some pertinence to -- pertinence? Is it  
2 pertains? It may not be the right word.

3 If it pertains to the run, then they  
4 would likely include it as part of the complete  
5 summary.

6 Q. Okay. And when you -- what are your  
7 expectations of an investigation when it gets to  
8 you, as far as information that the investigator  
9 collects?

10 MS. LLOYD: Objection as to form.

11 A. My expectations? What do you mean by  
12 that?

13 BY MS. BRATTON:

14 Q. So if they just gave you a routing  
15 sheet with nothing attached to it, would that be  
16 something that you would say, hey, I can't make a  
17 decision on?

18 A. That doesn't happen. The routing sheet  
19 is an extra thing. That wouldn't happen.

20 Q. Okay. So I guess that's my -- the  
21 question is, what do you expect to be included in  
22 an investigation so that you can make a decision  
23 about whether or not the investigation was a  
24 thorough one?

25 MS. LLOYD: Objection as to form.

1           A.    It includes all the applicable forms, a  
2    recommendation, any attachments that were deemed  
3    by the investigating supervisor to be necessary  
4    for a complete investigation.

5                   That's what -- I would expect the facts  
6    and the details to be there so I can make a  
7    logical recommendation.

8           Q.    And are cruiser cam and body cameras  
9    deemed to be necessary in making use-of-force  
10   determinations?

11                   MS. LLOYD:  Objection as to form.

12           A.    Well, we didn't have body cams in 2014.  
13   So if it's -- if it contains information and the  
14   supervisor decides to include it, yes, I would  
15   expect it to be in there.

16   BY MS. BRATTON:

17           Q.    Okay.  And if a supervisor did not  
18   include, at this time, a cruiser cam, and there  
19   is a reference to it, would that be something you  
20   would say, I want to see the cruiser cam?

21                   MS. LLOYD:  Objection as to form.

22           A.    It depends what the reference was.

23                   Again, these all -- you're talking in  
24   such hypothetical generalities, and there is no  
25   black and white on a lot of these things.  So



1 it's just difficult to answer some of your  
2 questions, because they are kind of --

3 BY MS. BRATTON:

4 Q. Okay. If a cruiser -- if the cruiser  
5 cam showed the incident that the use-of-force  
6 complaint or investigation is based on, would you  
7 expect the investigator to include that?

8 A. They can include it.

9 They can refer -- that can be looked up  
10 by incident number, also.

11 Q. Okay.

12 A. Sometimes that will happen. You can  
13 look it up on the system to -- it's just simpler,  
14 and to save space.

15 Q. Okay. But you would expect it to be  
16 somewhere that you know if it existed, that you  
17 could review it if you wanted to?

18 A. Most likely, yes.

19 Q. Okay. And what about dispatch, is that  
20 something that if officers are dispatched to a  
21 run, that the investigator should put, go out and  
22 get dispatch and put it in their report?

23 MS. LLOYD: Objection as to form.

24 A. Not necessarily. It depends on what's  
25 on that particular run. But that's not something

1 I would particularly look for necessarily. I  
2 would assume that if it was -- contained  
3 pertinent information, it would have been  
4 included.

5 Like I said before, it's not always the  
6 same as what happens on the run. It's a guide  
7 for the officer.

8 BY MS. BRATTON:

9 Q. Okay. How would you, then, determine  
10 if an officer's actions were within policy if you  
11 don't have all of the information that -- if you  
12 don't have all of the information that the  
13 officers used in making the decision that they  
14 made?

15 MS. LLOYD: Objection as to form.

16 A. The -- the information the officer uses  
17 is typically within the packet.

18 Again, I don't have the packet, so I  
19 don't know. But it's in the packet. If it's  
20 not, you ask for it.

21 BY MS. BRATTON:

22 Q. Okay. So that was the question with  
23 dispatch.

24 A. We don't -- radio does -- go ahead.

25 Q. No. I'm sorry.

1 A. Yeah. I -- I'm sorry. I just --

2 Q. Part of it is --

3 A. Go ahead.

4 Q. Part of it is, I'm trying to understand  
5 the process of how you came to the decision.

6 So if it's you typically don't listen  
7 to dispatch, then I would need to know that.

8 So that was -- one of the questions  
9 was, how did you come to this particular  
10 conclusion, and what -- so that was one question.

11 And then the other question was, what  
12 did you use to come to it? So --

13 MS. LLOYD: Objection as to form. And  
14 I believe that particular question has been  
15 asked and answered now several times.

16 A. I look at what's attached to this. I  
17 don't know what's attached to this, or I don't  
18 remember.

19 But I look at what's attached to this,  
20 and I make my recommendation on what's in the  
21 investigative packet. And, again, if I see any  
22 lack of information, then I ask for it.

23 BY MS. BRATTON:

24 Q. Okay. And if someone is stopped --

25 A. Uh-huh.

1 Q. -- and there is a dispute over the  
2 stop, would you expect the investigator to get  
3 the dispatch information to review?

4 MS. LLOYD: Again, objection as to the  
5 form of that question, and the premise of  
6 that question that someone is investigating  
7 a stop.

8 A. I don't know what you mean by dispute,  
9 who's disputing or where it's coming from, so I'm  
10 not sure about that part of the question.

11 BY MS. BRATTON:

12 Q. If you're reviewing a citizen or  
13 another officer, someone reports an investigation  
14 is open. It comes to you for review. And that  
15 investigation -- there is a dispute -- no matter  
16 how it came in, there is a dispute as to whether  
17 or not a citizen should have been stopped and  
18 detained, would you want whatever information was  
19 available to determine what the officers used  
20 to -- for reasonable suspicion to stop and  
21 detain?

22 MS. LLOYD: Again, I'm going to have to  
23 object to the form of that question to  
24 the -- and assuming it is a hypothetical.

25 A. The dispute part is still throwing me.

1                   If there was a dispute on something,  
2     that's unlikely that's the type of investigation  
3     that I would receive. A dispute would lead me to  
4     believe it would be a citizen complaint or some  
5     allegation of misconduct. And I would not get  
6     that initial investigation to look at.

7                   Dispute is kind of a -- I don't know  
8     who's disputing what.

9     BY MS. BRATTON:

10           Q.     Okay.

11           A.     It's unclear to me.

12           Q.     If an investigation in an officer's  
13     chain of command is opened or instituted because  
14     an officer stopped and detained someone, and the  
15     allegation is they did that lacking reasonable  
16     suspicion, would you want all of the information  
17     that was available to review what the officers  
18     used or based their reasonable suspicion  
19     determination on?

20           A.     Again, if there is a dispute and an  
21     illegal detention, that would not come to me,  
22     that would go to internal affairs. I would --  
23     that would not be a use-of-mace investigation.

24           Q.     I --

25           A.     I wouldn't get that.

1 Q. Okay. I understand that. Earlier, I  
2 asked you about --

3 A. I'm not sure you understand my role.

4 Q. Earlier, I asked you, have you -- do  
5 investigations come to you for review about an  
6 officer stopping and detaining someone that's not  
7 in policy. And you said yes.

8 A. I don't think that's how it was  
9 phrased.

10 Q. Okay. So then the only --

11 A. An internal affairs investigation would  
12 come to me, yes. But it would have been  
13 investigated already on that type of an  
14 allegation.

15 Q. Okay. And you have the ability -- when  
16 it comes to you, you do a final review on it,  
17 correct?

18 A. I would review what internal affairs  
19 did, yes.

20 Q. Okay. And if something was missing  
21 from internal affairs, you have the ability to  
22 say, I think this is missing, I want to go  
23 back -- I want you to go back and get it, look at  
24 it, review it, or give it to me?

25 A. We can talk to internal affairs if we

1     feel something is unclear in the investigation,  
2     yes.

3           Q.     Okay.  And you can ask them to obtain  
4     additional information?

5           A.     We can ask them to look at it, yes.

6           Q.     Okay.  And when you ask them to look at  
7     it are you able to say, go get me dispatch?

8           A.     That's up to their chain of command.  
9     We take our concerns to them and they have to  
10    answer that.

11          Q.     Okay.  So if you need additional  
12    information before you would sign off on  
13    something, and the other chain of command won't  
14    get it, how do you resolve that?

15          A.     They will get -- if I have a clarif --  
16    if I need clarification, they will get you the  
17    clarification.

18                 How they get it is on -- is their realm  
19    of responsibility or their area of  
20    responsibility.  I've never not been given  
21    information, clarifying information, if I've  
22    asked internal affairs' chain of command for it.  
23    They will give it.  There's -- they're not going  
24    to say, no, we're not going to clarify that.

25          Q.     Okay.  So then in instances where you

1 are reviewing a stop and detention investigation,  
2 you have the ability to go back to internal  
3 affairs and say, I want dispatch, or whatever you  
4 feel is missing?

5 A. I can ask them for clarification.

6 Q. Okay.

7 A. If I feel that something in particular  
8 is missing, I can say that. But, again, it's  
9 their investigation. They know what they've  
10 looked at and what they've done and who they've  
11 talked to.

12 Q. So then what is your role in the  
13 approval process?

14 A. Approval of what?

15 Q. The final -- as the final  
16 decision-maker, what is your role in the  
17 investigation?

18 A. On what type of investigation?

19 Q. On --

20 A. Because there's different roles in  
21 different types of investigations.

22 Q. On a stop and detain investigation.

23 A. I wouldn't get that. A stop and  
24 detention investigation would probably be an  
25 internal affairs compliant. So it would go to



1     them.

2                     If it was alleged to be an illegal  
3     detention or something like that, it would go to  
4     internal affairs. And then I would get their --  
5     if it was a person -- ultimately, I will get the  
6     internal affairs packet, after they did all the  
7     interviews and get anything they need to get for  
8     it.

9             Q.     Okay. And then do you sign off on  
10    it?

11            A.     I would review it and make a  
12    recommendation, yes.

13            Q.     Okay. So I -- in the investigation --

14            A.     Uh-huh.

15            Q.     -- that chain, you are to make a review  
16    and request -- a recommendation?

17            A.     Uh-huh.

18            Q.     And do you have any responsibilities in  
19    ensuring that the investigation that was  
20    conducted was thorough and accurate?

21            A.     If I see something -- as I said, if I  
22    see something that's missing in an investigation,  
23    I'm going to ask for clarification.

24                    After I've made my recommendation, all  
25    internal affairs investigations go to the deputy

1 chief level, so -- which provides you with  
2 another level of oversight and supervision and  
3 review.

4 And they also have the prerogative, if  
5 they feel something is missing, to send it  
6 back.

7 Q. Okay. So your role is not just to sign  
8 off on internal affairs investigations, it's  
9 to -- is that accurate?

10 A. What do you mean by sign off? Just  
11 signing the routing sheet or --

12 Q. Yes, without --

13 A. No, I would --

14 Q. -- reviewing anything.

15 A. I would be remiss in my duties if I did  
16 not read the investigation --

17 Q. Okay.

18 A. -- completely.

19 Q. And with officers and dispatch, an  
20 officer then is given leeway to stop anyone  
21 because dispatch could be wrong?

22 MS. LLOYD: Objection as to form.

23 A. I don't know what you mean by leeway.  
24 The officers -- we get runs. They respond to the  
25 run. That puts them in the area. There's so

1 much more to the situation on the streets.

2 There's so many more factors and more variables  
3 that come into play.

4 And leeway is -- I don't know what  
5 leeway is, what you mean by that word.

6 BY MS. BRATTON:

7 Q. So there is still a question that I  
8 don't think has been answered yet, about how,  
9 when an investigation is being conducted -- so  
10 when you're doing the review, I understand that  
11 internal affairs, they go get all the  
12 information. They get everything.

13 But, ultimately, when it comes to you,  
14 you do a complete review of what the officers did  
15 before you sign and say, I recommend whatever you  
16 recommend.

17 A. Okay.

18 Q. So in that regard, you are reviewing  
19 all of the facts contained in the investigation;  
20 is that correct?

21 A. Right, reviewing the investigation.  
22 Right.

23 Q. Okay. So if nothing matches a  
24 description except that a person is near a  
25 location -- once you read it, you listen to a

1 tape, you watch a video, the only thing that is  
2 exact is that somebody is near a location, would  
3 you have any follow-up at all?

4 MS. LLOYD: Again, objection as to the  
5 form of that question and departing from the  
6 facts of this case.

7 A. Again, there is more to every bit of  
8 policing that we do out there than just what  
9 comes across the radio.

10 And, again, I can't begin to  
11 second-guess what they saw and what they did in  
12 this hypothetical that you're giving, out in the  
13 streets. There is so much more to it.

14 BY MS. BRATTON:

15 Q. I understand that there is a number of  
16 instances or a number of variables that can  
17 happen on the street.

18 A. Uh-huh.

19 Q. But when you get an investigation  
20 packet, your investigation is kind of limited to  
21 what those officers put in your experience; is  
22 that accurate?

23 MS. LLOYD: Excuse me. Could you  
24 read the -- I didn't hear the last part of  
25 that question, just the last phrasing.

1 (The record was read.)

2 MS. LLOYD: Objection as to form.

3 BY MS. BRATTON:

4 Q. When -- there are a number of  
5 variables -- you've already testified to -- that  
6 can occur when an officer stops someone in your  
7 decision-making.

8 A. Uh-huh.

9 Q. But when you make a determination,  
10 you're looking at the facts in the packet that's  
11 before you, correct?

12 A. Yes.

13 Okay. So if you have a packet before  
14 you, and you're investigating a stop -- or you're  
15 reviewing an investigation of a stop and  
16 detention, in the facts in your packet, the only  
17 thing that matches up is that the suspect was  
18 near the location, would you have any follow-up?

19 MS. LLOYD: Again, objection as to form  
20 and the fact that this question has now been  
21 asked numerous times.

22 I would also object to the clar --  
23 matches up with what?

24 A. Again, if I saw anything lacking or  
25 something that is amiss in any investigation that

1 I review, I would ask for clarification or seek  
2 clarification on it.

3 Saying that one thing is the only thing  
4 that matches up, you can't be that -- it's not,  
5 again, black and white. You can't just say,  
6 well, this and that. There's going to be more to  
7 that packet.

8 And if I saw anything that was amiss, I  
9 would ask for clarification.

10 I've said that several times. And  
11 trust me when I say, I would ask for  
12 clarification.

13 BY MS. BRATTON:

14 Q. No. I under -- I understand that. I'm  
15 trying to understand what dispatch's role is in  
16 policing, if any.

17 So if dispatch calls in a black woman  
18 with shorts walking down the street, and one of  
19 your officers stops a white woman with a short  
20 skirt on just because they're on the same street  
21 and in the vicinity, is that something, if the  
22 white woman made a complaint, that you would  
23 review?

24 MS. LLOYD: Again, objection as to the  
25 impossible form of that question.

1           And the initial question, I believe,  
2           was something that you want to understand  
3           about the role of dispatch. The question is  
4           impossible to answer. It went on for a long  
5           time with several subparts.

6           A. I forgot the question.

7   BY MS. BRATTON:

8           Q. So --

9           A. Because it was, again, a long question.

10          Q. Yes.

11                 If an officer can just stop anybody  
12       because dispatch is -- can be inaccurate, then  
13       what is dispatch used for?

14                 MS. LLOYD: Again, objection as to form  
15       and the premise of that question, which is  
16       an absolute mischaracterization of what  
17       Commander Curmode has said numerous times.

18           A. In fact, I think I said you can't just  
19       stop anybody for anything. I'm sure I said that.

20                 Again, a citizen calls in, oftentimes  
21       anonymous, saying -- at night in the dark -- that  
22       they saw a male black, male white, what have you.  
23       There are perceptions. You cannot go exact --  
24       well, I'm going to drive by him because he's not  
25       a male black with a shirt on, because I see a

1 light-skinned male black who took his shirt off.

2 Things change. They're fluid. The  
3 officers need to get the -- they're at the scene.  
4 They need to take what they have, put all the  
5 pieces together to make a determination.

6 BY MS. BRATTON:

7 Q. Okay. So --

8 A. I feel like I'm answering the same  
9 question different ways for you, trying to  
10 clarify for you.

11 Q. Yeah. Maybe it's just me not getting  
12 it.

13 Because if you can't stop anybody -- if  
14 an officer can't stop just anybody on a street,  
15 but someone on the street doesn't match any  
16 description, then is it that the officer can stop  
17 because of vicinity, or -- that's -- that's what  
18 I'm trying to get to.

19 Because it was said that an officer  
20 can't just stop anybody. And then it was said  
21 that officers have to rely on more than just  
22 dispatch.

23 So if vicinity to a dispatch location  
24 is all that is in line with dispatch, what was  
25 dispatched out as far as race, as far as gender,



1     then how -- what is reas -- how do you make a  
2     determination about whether the stop was  
3     reasonable?

4             MS. LLOYD: Again, objection as to the  
5     form of that question, which went on  
6     forever, without ever indicating what is the  
7     criminal activity that is the source of the  
8     dispatch report or call.

9     A. Can you ask the last part of the  
10    question again?

11   BY MS. BRATTON:

12         Q. Uh-huh.

13             Where -- how do you make a  
14    reasonableness determination of an officer's stop  
15    and detention when the only -- when vicinity is  
16    the only descriptor that is in line with what  
17    dispatch sends out?

18             MS. LLOYD: Again, this question has  
19    now been asked several times.

20             And, also, Commander Curmode has  
21    testified now several times as to this issue  
22    of investigating a stop and detention.

23     A. Again, the officers are at the scene.  
24    They make the stop. If it's just vicinity, they  
25    make the stop. Something more is going to

1     happen. Something happens. Something else is  
2     going to contribute to that situation.

3     BY MS. BRATTON:

4             Q.     Okay. So then vicinity is a  
5     reasonable -- you can stop someone just because  
6     they're in the vicinity?

7             MS. LLOYD: Objection as to form and as  
8     to mischaracterization of her testimony.  
9     She's just testified that there are other  
10    variables in any situation.

11            All of your questions have eliminated  
12    the underlying criminal activity that would  
13    be inherent in the situation.

14            A.     We've also -- earlier, I testified that  
15    you can have a consensual encounter with someone  
16    based on vicinity.

17            10:30 at night, you can have -- and  
18    that -- they didn't get the car description, they  
19    can reasonably stop someone for vicinity, yes.

20            Q.     Okay.

21            A.     But, as I said also -- because I'm  
22    giving a multi-part answer -- there are those  
23    other factors, and other things will come into  
24    play when that stop is made. Things happen.  
25    Things change. Things evolve.

1           Q.    Okay.  But if the original -- just  
2   going back to what you said, is that they can  
3   stop for vicinity.

4                   Is that the only thing that -- can they  
5   base a reasonable stop just off of suspicion --  
6   vicinity?

7           MS. LLOYD:  Again, objection as to form  
8   and as to mischaracterization of her  
9   testimony, now which is getting to the point  
10   where this is badgering.  And this is  
11   ridiculous.  She has answered the same  
12   question now, I would say, maybe up to  
13   30, 40 times.

14           MS. BRATTON:  For the record, I just  
15   asked the witness a question as opposed to  
16   mischaracterizing testimony.

17           My question was, can an officer base a  
18   stop solely off of vicinity.  That is not  
19   mischaracterizing anything.  That is asking  
20   a question.

21           MS. LLOYD:  That question has been  
22   asked and answered now several times.

23           A.    There's other circumstances involved in  
24   that.  They can make a stop.  Vicinity is a big  
25   part of it.  It's not the whole part.  I cannot

1 second-guess what the officers saw, if we're  
2 talking hypothetical or we're talking about his  
3 specific situation.

4 BY MS. BRATTON:

5 Q. So my question was not the other. I'm  
6 just asking solely, so one thing.

7 If -- can the officers solely base -- I  
8 understand that it can be vicinity, it can be  
9 race. I understand there can be variable  
10 factors.

11 The question, which has not been  
12 answered, this specific question is, can an  
13 officer within Columbus police training stop a  
14 citizen solely -- for no other reason, solely  
15 because they are in the vicinity of a dispatched  
16 crime?

17 A. Vicinity has a big part of it. It can  
18 have a big role in it.

19 Q. Okay.

20 A. But the word solely, again, you're  
21 black-and-whiting policing, and it isn't like  
22 that.

23 That's kind of an absolute that you're  
24 giving me.

25 Q. So then is it --

1           A.    I guess I don't -- I'm not  
2   understanding the question.  You're asking the  
3   question different ways, and I'm not -- clearly,  
4   since you keep asking it, I must not be following  
5   what you're asking me, or I've answered it.  I'm  
6   not sure.

7           Q.    I mean, I don't even -- I don't know  
8   how to make it clearer -- is that -- is the --  
9   can an officer stop somebody and the only reason  
10  they stop them is because they're in the vicinity  
11  of a reported crime?

12          A.    It's not going to be the only reason.  
13  There's going to be a reported crime.

14          Q.    No, that's what I said, reported crime.

15          A.    Right.  That -- so it wouldn't be the  
16  only reason they stopped them.  They may stop  
17  them just to ask if they saw somebody in the  
18  area.  There can be very many different ways to  
19  have contact with a person in the vicinity of  
20  something.

21               And then something may transpire from  
22  there, where there's more or there's some other  
23  factor that would lead them to believe, huh, this  
24  person isn't just here, they potentially could  
25  have something to do with this.

1 Q. Okay. So that was the answer --

2 A. Is that --

3 Q. So, yes, they can stop them because  
4 they're -- just because they're in the  
5 vicinity?

6 MS. LLOYD: In the vicinity of --

7 A. A reported crime, right.

8 BY MS. BRATTON:

9 Q. Yes.

10 A. That's what I thought I answered -- or  
11 trying to answer.

12 Q. Yes, you did. Thank you.

13 And if they stop someone -- if an  
14 officer stops someone in the vicinity of the  
15 crime, and that person -- there is no reasonable  
16 suspicion, at that time, that that person is  
17 involved in the reported crime, then that person,  
18 if they don't consent, can leave; is that  
19 accurate?

20 A. Well, if it's a consensual encounter,  
21 yes, they can leave. If the officers feel  
22 there's something more to make it into the realm  
23 of the investigative stop, then they need to  
24 comply with the investigation and either clear  
25 themselves, or the officers will figure out that

1 they do or do not have anything to do with it.

2 Q. Okay. And to take it from one realm to  
3 the other, they have to have reasonable  
4 suspicion?

5 A. Something more is -- needs to come up.  
6 Some other circumstance would come up.

7 Q. Okay. Are there different chains of  
8 command that a -- that you use of mace would go  
9 through, depending on whether or not a suspect  
10 was handcuffed when they were maced?

11 A. A use of mace against a handcuffed?  
12 It's the same chain of command, but it would go  
13 up to the deputy chief's level --

14 Q. Okay.

15 A. -- beyond the commander level.

16 Q. Okay. And from the -- from this  
17 routing sheet, does it look like this went to  
18 that particular level?

19 A. No.

20 Q. Okay.

21 A. Doesn't indicate that on the routing  
22 sheet, no.

23 Q. Okay. And if a sus -- if a suspect who  
24 was maced alleges they were handcuffed when they  
25 were maced, and an officer says that they were

1 maced and then handcuffed, which route would --  
2 which chain of command would the -- would you put  
3 that in?

4 MS. LLOYD: Again, objection as to form  
5 and as to where this information is.

6 Is this a use-of-force investigation?

7 A. Yeah. Because that -- that sounds to  
8 me like something that would be an internal  
9 affairs investigation, later on, that wouldn't be  
10 on the initial use-of-mace or use-of-force  
11 investigation.

12 Is that what you're asking?

13 BY MS. BRATTON:

14 Q. Okay. Well, I guess that just answered  
15 part of the question.

16 So it would only go -- if an -- it  
17 would only initially, without a citizen making  
18 the complaint that they were handcuffed at the  
19 time, the chain of command would just be based  
20 off of the officer's report, initially?

21 MS. LLOYD: Use-of-force  
22 investigation.

23 A. Use of mace? Use of force?

24 BY MS. BRATTON:

25 Q. Would only be based on the officer's



1 report at that time?

2 A. I don't know what you mean.

3 Q. When an officer uses mace, they have to  
4 write out the use-of-force report, correct?

5 A. Right.

6 Q. Okay.

7 A. The supervisor would talk to the -- I  
8 don't want to point to him -- would talk to the  
9 suspect also.

10 Q. Okay.

11 A. So it's -- it's totality of the  
12 supervisor, the at-scene supervisor's  
13 investigation.

14 Q. Okay. So then it doesn't necessarily  
15 have to go through internal affairs for if there  
16 was a conflicting account given by the suspect  
17 and the officer's use-of-force report?

18 A. No. It would not necessarily have to  
19 go to it. Internal affairs is for internal and  
20 external citizen complaint investigations.

21 Q. Okay. So if a suspect said, I was  
22 handcuffed when the officer maced me, and an  
23 officer says, I maced him first and then I  
24 handcuffed him, which -- who would decide what --  
25 if that went to the deputy chief or not?

1           A.    If it was written up by the at-scene  
2   supervisor as a use of mace, it would stop there,  
3   if that makes sense. It would stop at me, at the  
4   commander level, and I would send to internal  
5   affairs.

6                    It would only go to the deputy chief if  
7   it was, you know, clear that the person was  
8   handcuffed.

9                    I -- I don't really know what you're  
10   saying. Because that -- that detail might come  
11   up, but again, that's more of an internal affairs  
12   allegation.

13          Q.    Okay. So you --

14          A.    If it was the at-scene supervisor and  
15   lieutenant that made that determination that this  
16   was a use of mace -- or it was a use of mace --  
17   not seeing the packet, I don't know.

18                   We're talking hypothetical, right --

19          Q.    Yeah.

20          A.    -- just use of mace?

21          Q.    Uh-huh.

22          A.    So --

23          Q.    So then you would send it to internal  
24   affairs, and internal affairs would do the  
25   investigation?

1 A. No.

2 Q. So it would just through internal  
3 affairs and stop?

4 A. If it's -- if I had a use of mace --  
5 just a use of force, if it's a use of mace, I  
6 would send it to internal affairs, as I stated  
7 way back in the beginning of this.

8 I -- I don't know if they file it,  
9 if -- for staff purposes. But they take it and  
10 they maintain it. What they do with it, that's  
11 in IA. But that's where it goes on just a use of  
12 mace -- not handcuffing, just a use of mace.

13 Q. Okay. So what I'm asking is, who makes  
14 the decision between whether it goes to internal  
15 affairs or whether it goes to the assistant  
16 chief -- or deputy chief --

17 A. Uh-huh.

18 Q. -- if there is a dispute between the  
19 version of facts that the suspect gives -- I'm  
20 handcuffed and maced -- or the version of facts  
21 that the officer puts in their use-of-force  
22 report, that they're maced and then handcuffed?

23 MS. LLOYD: Again, objection as to  
24 form.

25 And just for clarification, which she's

1 already testified, the supervisor is the one  
2 who is investigating the use of force.

3 A. The at-scene supervisor makes the  
4 determination.

5 And that's why we have the internal  
6 affairs route. If the -- sorry. If the suspect  
7 feels that they were wronged or that something  
8 improper happened. That's why we have internal  
9 affairs. It's separate. It's a separate entity  
10 from chain of command.

11 Again, not seeing this, if it indicated  
12 handcuff or whatever, it came in as a use of  
13 force, that determination was made by the  
14 at-scene supervisor of the investigation, through  
15 the course of their in-person interviews, their  
16 observations at the scene, just everything that  
17 they saw while they were doing their  
18 investigation.

19 BY MS. BRATTON:

20 Q. Okay. I don't know if I'm asking this  
21 question wrong or not.

22 If a person -- if a suspect would not  
23 give -- never calls internal affairs, but on  
24 scene they give a statement that I was handcuffed  
25 first, and then maced --

1           A.    Uh-huh.

2           Q.    -- and then the officer puts in her  
3    use-of-force report the opposite, who would be  
4    the -- the person who makes the decision about  
5    whether or not you're the last person to review  
6    it or whether or not the deputy chief -- just the  
7    decision itself, not whether or not it was  
8    justified, but who would be the last level of  
9    review for that?

10          A.    When the at-scene supervisor  
11    commences their use-of-mace or use-of-force  
12    investigation, they make that determination from  
13    the statements that they gather at the scene,  
14    what's happening at the scene.

15                They would title their investigation  
16    either use of force, level 2, mace, or use of  
17    force against handcuffed prisoner. That  
18    determination is made at the scene by the  
19    supervisor who's with the suspect, who's with the  
20    officers, who sees what's going on, who looks at  
21    the physical evidence.

22                And that's how the letter comes up. So  
23    that determination is made when they -- the  
24    determination is made when they do the  
25    investigation.

1 Q. Okay. Okay. Can you describe the  
2 three-second rule that you all use for use of --  
3 for an individual complying with commands?

4 A. What are you referring to?

5 Q. Yesterday, trainer -- what is his  
6 name?

7 MS. LLOYD: Sergeant Cheatham?

8 MS. BRATTON: Yes.

9 BY MS. BRATTON:

10 Q. Sergeant Cheatham mentioned the  
11 three-second rule for compliance.

12 A. I'm not sure what he's referring to.

13 That three -- that phrase, three-second  
14 rule, is not really in our policies. It's  
15 something that I'm sure he teaches, but I  
16 don't know exactly what he referred to when he  
17 told you that. I really can't comment on what he  
18 said.

19 Q. Okay. How long should an officer give  
20 a person to comply after they make a command?

21 MS. LLOYD: Objection as to form.

22 A. There's no absolute. That's  
23 situational. It depends on various factors.

24 BY MS. BRATTON:

25 Q. Okay. So then are you all trained to

1 give somebody three seconds or --

2 MS. LLOYD: Objection as to form, asked  
3 and answered.

4 A. Again, that -- I'm not sure what he  
5 testified to. I don't know what his phrasing is.  
6 That's not a term that I use. But it's  
7 situational.

8 There's one -- it depends what the  
9 person's state is, the aggressiveness that's  
10 being displayed, type of run. There's so many  
11 factors involved in it, you can't just absolute  
12 anything.

13 Q. So then I guess the answer would be,  
14 you all are not trained on -- to give a suspect  
15 three seconds to comply?

16 MS. LLOYD: Again, objection as to  
17 form, asked and answered.

18 A. That is Sergeant Cheatham's area of  
19 expertise. He was the DT sergeant. If he's  
20 using a certain phrase, and we're saying the same  
21 thing, again, I don't know exactly what the  
22 whole -- like how he said what he said to you.

23 BY MS. BRATTON:

24 Q. Okay. My question to him was, if a  
25 suspect is complying, how long do you give them

1 to comply. And he said that Columbus police have  
2 a three-second rule.

3 So I'm asking, what is your  
4 understanding of how long -- if a -- and let me  
5 compartmentalize it, because that was broad.

6 If a person is fully compliant with --  
7 with you, and you give them a command, how long  
8 from -- how you are trained -- are you supposed  
9 to give them to comply with your command?

10 MS. LLOYD: Objection. Asked and  
11 answered.

12 A. Again, it's a reasonableness. You  
13 can't put -- you -- again, I don't understand  
14 exactly what he told you about the three seconds.  
15 I'm not the DT, the defensive tactics sergeant.  
16 What his phrasing and terminology is, I don't  
17 know.

18 It's all down to reasonableness. It  
19 depends on what they're doing. Are they  
20 clenching up? There's so many factors on  
21 suspects' actions, scene. There's -- there's so  
22 many variables involved in this, you -- it's  
23 difficult to put an absolute time on that.

24 BY MS. BRATTON:

25 Q. Okay. Do you remember, in any of your



1 training, anything about giving someone three  
2 seconds to comply?

3 A. We talked about reasonableness. I  
4 don't know that I personally was told a  
5 three-second. But you must remember, I went to  
6 the academy 33 years ago. So Sergeant Cheatham  
7 wasn't on the department then.

8 But, again, that's a term he's using in  
9 a training situation that, to me, comes down to  
10 reasonableness. And that's basically -- three  
11 seconds is not a long period of time.

12 BY MS. BRATTON:

13 Q. Okay. Do you still do any patrol on  
14 the -- are you -- I guess still on the street  
15 is -- I don't know the correct term.

16 A. I'm not in a marked cruiser.

17 Q. Okay.

18 A. I go out with officers now and again,  
19 just to go out. But, no, I'm not on patrol. No  
20 commanders are on patrol --

21 Q. Okay.

22 A. -- a routine patrol. Even though  
23 they're out and about, they're not assigned a  
24 cruiser.

25 Q. Okay. And when was the last time that

1     you conducted a traffic stop where you took  
2     someone out of the car?

3             A.     I don't have a marked cruiser, so I'm  
4     not permitted to conduct a traffic stop.

5             Q.     Okay. Have you rode with anyone who --

6             A.     Not since I've been with the strategic  
7     response bureau, because that's not -- we're  
8     not -- we're not patrol. We're assigned to  
9     patrol, but we're not patrolling and taking runs.  
10    We have different responsibilities.

11            Q.     Okay. And can the strategic response  
12    make an arrest?

13            A.     Yeah, they're sworn officers. Yes,  
14    they can.

15            Q.     Okay.

16            A.     They're officers. I'm sorry.

17            Q.     Okay. No, I was just trying to see  
18    what they are.

19            A.     Yeah, you don't know what they are.  
20    So, yeah, they do community relations, things  
21    like that, school resource officers, recruiting  
22    units, things like that.

23            Q.     Okay.

24            A.     But, yes, they clearly have -- and they  
25    do make arrests.

1 Q. Okay. And are they in regular uniform  
2 or different?

3 A. They're all in uniform, except for the  
4 mounted, they're in a different uniform, but  
5 they're still in uniform.

6 Q. Okay.

7 MS. BRATTON: All right. I think I'm  
8 done, but just give me a minute.

9 (A recess was taken from 11:29 to  
10 11:34.)

11 MS. BRATTON: I don't have any further  
12 questions.

13 THE REPORTER: Do you want signature if  
14 it's ordered?

15 MS. LLOYD: Yes.

16

17

COMMANDER SUZANNE CURMODE

18

19

- - -

20

DEPOSITION ADJOURNED AT 11:34 A.M.

21

- - -

22

23

24

25

1 C E R T I F I C A T E

2

3 STATE OF OHIO :  
4 : SS  
5 COUNTY OF HAMILTON :

6 I, Wendy Scott, the undersigned, a duly  
7 qualified and commissioned notary public within  
8 and for the State of Ohio, do certify that before  
9 the giving of her deposition, COMMANDER SUZANNE  
10 CURMODE was by me first duly sworn to depose the  
11 truth, the whole truth and nothing but the truth;  
12 that the foregoing is the deposition given at  
13 said time and place by COMMANDER SUZANNE CURMODE;  
14 that I am neither a relative of nor employee of  
15 any of the parties or their counsel, and have no  
16 interest whatever in the result of the action.

17 IN WITNESS WHEREOF, I hereunto set my hand  
18 and official seal of office at Cincinnati, Ohio,  
19 this 9th day of October 2017.

20

21

22 Wendy Scott  
Notary Public - State of Ohio  
My commission expires September 3, 2022

23

24

25

1 E R R A T A S H E E T

2 DEPOSITION OF: COMMANDER SUZANNE CURMODE  
3 TAKEN: SEPTEMBER 28, 2017

4 Please make the following corrections to my  
5 deposition transcript:

6	Page	Line Number	Correction Made
7			
8			
9			
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25	Witness Signature	Date
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**0** 21:2

**1**

**10** 30:12,13,16  
**10:09** 61:4  
**10:12** 61:5  
**10:30** 62:23 80:9 105:17  
**11/26/14** 47:2,5  
**110** 23:8  
**11:29** 122:9  
**11:34** 122:10,20  
**120** 8:14  
**17** 7:1  
**1984** 7:5  
**1st** 58:16

**2**

**2** 20:23 21:2,14 28:2,6  
 48:5,21 54:12,18,22 57:16  
 83:17 116:16  
**2000s** 24:15  
**2001** 7:9  
**2014** 8:2,3 26:10 87:12  
**22** 61:15,18 77:15,16  
**2756** 55:18

**3**

**3** 56:9 59:24 60:5,20,22  
 61:8,19 77:15  
**30** 106:13  
**32** 61:19  
**33** 21:5,9 46:22,23 57:8  
 120:6

**4**

**40** 106:13  
**44** 61:15 77:16  
**45** 61:19

**7**

**784** 55:4  
**790** 83:17

**A**

**A's** 52:7 53:13  
**A.M.** 122:20  
**ability** 5:13 13:25 59:8,17  
 93:15,21 95:2

**able** 14:10 28:1 44:11 64:9  
 94:7  
**absolute** 102:16 107:23  
 117:22 118:11 119:23  
**academy** 10:24 120:6  
**account** 35:16 112:16  
**accurate** 18:21 71:17 73:9  
 96:20 97:9 99:22 109:19  
**act** 31:7 34:13,22  
**acted** 41:16 42:22 45:8  
**acting** 24:5 81:9  
**action** 58:23 64:14  
**actions** 16:7 27:16 31:17  
 34:7 35:19 40:19 44:12  
 54:8 63:5 74:9,11 89:10  
 119:21  
**activity** 14:21 16:18 104:7  
 105:12  
**actual** 62:12  
**additional** 53:16 94:4,11  
**adhere** 33:6  
**ADJOURNED** 122:20  
**admin** 7:23  
**affairs** 9:7 11:15,20 15:16  
 18:1,3,13,18,25 19:5,11  
 20:3 23:22 43:4 44:2,4,11,  
 16 47:15,16 49:1 92:22  
 93:11,18,21,25 95:3,25  
 96:4,6,25 97:8 98:11  
 111:9 112:15,19 113:5,11,  
 24 114:3,6,15 115:6,9,23  
**affairs'** 94:22  
**afoot** 14:21  
**aggressiveness** 27:17  
 35:20 118:9  
**ago** 72:18 120:6  
**agree** 77:22 78:10  
**ahead** 89:24 90:3  
**allegation** 92:5,15 93:14  
 113:12  
**alleged** 10:9 20:1 96:2  
**alleges** 110:24  
**alley** 68:9  
**allow** 36:10  
**allowed** 73:19  
**Amendment** 27:4  
**amiss** 100:25 101:8  
**anonymous** 102:21  
**answer** 4:21 9:22,23 12:8  
 17:10 25:3,15,16 26:18  
 32:12 33:18,23 36:17  
 38:5,9 39:5 40:3 41:5  
 62:21,24 63:7 65:22,24  
 72:9 88:1 94:10 102:4  
 105:22 109:1,11 118:13

**answered** 17:9 26:5 28:10  
 29:9 33:3,11 34:9 39:21  
 40:25 49:17 52:19 90:15  
 98:8 106:11,22 107:12  
 108:5 109:10 111:14  
 118:3,17 119:11  
**answering** 103:8  
**answers** 13:15 22:25  
**anybody** 6:2 72:4,25 75:15  
 102:11,19 103:13,14,20  
**appear** 48:5  
**appears** 63:24  
**apples** 58:4  
**applicable** 87:1  
**apply** 30:9 34:14  
**approval** 19:18 95:13,14  
**approximately** 7:6  
**area** 25:18,20 94:19 97:25  
 108:18 118:18  
**areas** 7:21 24:25  
**argue** 12:5  
**arrest** 40:21 42:1,10,12  
 49:7 81:25 82:2,23 83:2,4,  
 5,6,18,23,24 84:2,6,10  
 85:5,21 121:12  
**arrested** 40:16 41:24  
 42:18 56:20 84:14,17,18,  
 20,23  
**arrestee** 84:20  
**arrests** 121:25  
**articulable** 63:17  
**asked** 17:9 22:19 26:5  
 29:8 33:3,11 34:9 39:21  
 40:24 49:16 53:6 62:1,15  
 64:3 90:15 93:2,4 94:22  
 100:21 104:19 106:15,22  
 118:2,17 119:10  
**asking** 6:8 8:21 13:4 14:7  
 15:24 17:6 20:13 22:14  
 26:8,9 29:2 32:4,25 34:4  
 43:15,16 44:19,23 46:10,  
 11 53:11,22 58:8 64:10,  
 11,18 65:5 70:9 80:25  
 83:22 84:15 106:19 107:6  
 108:2,4,5 111:12 114:13  
 115:20 119:3  
**assess** 35:2,5  
**assigned** 8:10 120:23  
 121:8  
**assignment** 7:20  
**assistant** 114:15  
**associated** 49:7  
**assume** 53:25 54:4 68:13,  
 17,22,24 69:1,4 76:3 89:2  
**assuming** 47:17 62:23  
 84:1 91:24

**assumption** 53:15  
**at-scene** 112:12 113:1,14  
 115:3,14 116:10  
**attached** 21:23 22:1 40:10  
 49:10 51:17 54:19 86:15  
 90:16,17,19  
**attachment** 51:16  
**attachments** 87:2  
**attempt** 63:24  
**attorney** 6:1  
**audio** 5:24 22:9 51:17  
 61:16,20 62:9 76:13 77:19  
**available** 22:10 82:11  
 91:19 92:17  
**Avenue** 55:18  
**aware** 23:18 48:25

---

**B**


---

**B's** 52:8 53:14  
**bachelor's** 6:22  
**back** 5:6 22:23 39:23  
 45:12 46:21 51:23,24  
 52:6,7,12,23 53:12,13,16  
 54:1 59:12 63:14 66:10  
 73:5 80:12 83:8 85:19  
 93:23 95:2 97:6 106:2  
 114:7  
**badgering** 106:10  
**bantering** 52:23  
**bar** 66:11 77:11,24  
**base** 106:5,17 107:7  
**based** 15:11,21 16:1,17  
 26:1 27:16 42:1 56:10  
 68:25 88:6 92:18 105:16  
 111:19,25  
**basically** 32:7 120:10  
**basis** 13:14  
**Bates** 55:1  
**beginning** 57:19 114:7  
**behavior** 68:25  
**believe** 10:16 23:22 40:24  
 44:23 69:4 84:19 90:14  
 92:4 102:1 108:23  
**beyond** 59:8 110:15  
**big** 17:15 27:21 81:23  
 106:24 107:17,18  
**bit** 99:7  
**black** 66:7 69:11,12 70:5,8  
 78:5,6 79:5,6 87:25 101:5,  
 17 102:22,25 103:1  
**black-and-white** 37:25  
 38:13 40:3  
**black-and-whiting** 107:21  
**Blair** 68:7 69:3,6

**Blair's** 69:21,25  
**blanche** 38:5  
**body** 87:8,12  
**bother** 85:12  
**bottom** 54:25  
**BRATTON** 4:5 9:21 10:19  
 11:12,19,25 12:6 13:5,17  
 14:4 15:20 17:4,11 18:16  
 21:7 23:17,25 24:12 25:5,  
 11 26:7 27:23 28:4,23  
 29:13 30:15 31:9,18 32:1,  
 11,24 33:8,16 34:1,17  
 35:6,14 36:6,19 37:2,21  
 38:23 39:9 40:6 41:3  
 42:17 43:15,21 44:19  
 45:4,5,12,18 46:20 48:1  
 49:19 53:9,19 54:12,16  
 55:16 56:4 57:3 58:6,7,15,  
 19 60:6,10,13,17,19,22,25  
 61:2,6,17,21 62:7 63:9  
 64:2,17,23 65:3 66:15,23  
 67:25 68:16,20,23 69:24  
 71:10 72:21 74:19 75:6  
 76:8 77:6,14,20 78:9  
 79:19 81:17,24 82:20  
 83:21 84:16,25 85:8,22  
 86:13 87:16 88:3 89:8,21  
 90:23 91:11 92:9 98:6  
 99:14 100:3 101:13 102:7  
 103:6 104:11 105:3  
 106:14 107:4 109:8  
 111:13,24 115:19 117:8,9,  
 24 118:23 119:24 120:12  
 122:7,11  
**break** 5:8,10 41:8 61:3  
**broad** 65:21 119:5  
**build** 72:14  
**building** 63:15 69:8,10  
 78:23,25 79:4  
**bureau** 7:18,19,20 8:4 9:7  
 13:11 44:11 47:15,16  
 121:7  
**Bureaus** 7:15  
**burglary** 61:11

---

**C**


---

**C-u-r-m-o-d-e** 4:16  
**call** 68:3 69:2,7 70:14  
 72:18 77:25 104:8  
**called** 65:13 67:1,6,7  
 70:13 77:7,9,22  
**caller** 79:25  
**calling** 71:18  
**calls** 63:2,3 66:6 72:13  
 80:11,12 101:17 102:20  
 115:23

**cam** 87:8,18,20 88:5  
**cameras** 87:8  
**cams** 87:12  
**car** 36:8,10,11,12,16,21,22  
 37:5,7,9,11 39:11,12,17  
 40:13,14 41:22 69:7 70:16  
 79:25 80:7 105:18 121:2  
**career** 46:12  
**carte** 38:5  
**case** 11:14 12:19 13:12  
 18:5 40:7 52:16 54:9  
 64:11 66:4 83:3 99:6  
**cases** 12:19 15:7 18:7  
**certain** 9:8 21:22 26:17,18  
 32:18 82:11 118:20  
**chain** 9:5,7 17:24 18:2,6,  
 12 19:2,5,12,14,20,23  
 20:5,25 22:22 23:5 43:18,  
 24,25 48:6,22 50:2 51:24  
 52:17 58:1 59:18 92:13  
 94:8,13,22 96:15 110:12  
 111:2,19 115:10  
**chain-of-command** 47:23  
 57:25 62:5  
**chains** 110:7  
**change** 24:25 25:1 26:11,  
 15 65:14 80:6 103:2  
 105:25  
**changed** 25:19 26:2,8  
 72:18  
**changes** 24:20 65:20 67:5  
**characterization** 33:23  
 66:14  
**charge** 43:7 45:22,24  
**charged** 45:1,2,20 46:3,17  
 56:20  
**charging** 42:22 45:16  
**Cheatham** 117:7,10 120:6  
**Cheatham's** 118:18  
**check-boxes** 82:7  
**chief** 20:21 97:1 112:25  
 113:6 114:16 116:6  
**chief's** 110:13  
**circumstance** 34:21 37:4,8  
 85:15 110:6  
**circumstances** 9:15 16:22  
 23:23 35:10,11,13,19  
 36:15 37:1,14 40:2 56:13  
 79:17 85:6 106:23  
**circumstantial** 27:16  
**citizen** 9:2 10:9 11:2,3  
 13:8 14:1,16 15:2 18:13,  
 24 20:4 31:3,21 36:21  
 37:3,11 39:15,18 63:3  
 73:24 74:9 91:12,17 92:4  
 102:20 107:14 111:17

112:20  
**citizens** 33:9  
**City** 6:13  
**clar** 100:22  
**clarif** 94:15  
**clarification** 52:1,20 53:4,  
 8 59:11,16 74:18 94:16,17  
 95:5 96:23 101:1,2,9,12  
 114:25  
**clarifications** 22:25  
**clarify** 29:3 94:24 103:10  
**clarifying** 49:14 94:21  
**clear** 5:7 10:14 24:9 34:3  
 48:15,17 68:6 77:4 83:12  
 109:24 113:7  
**clearer** 15:11 108:8  
**clearly** 34:11 108:3 121:24  
**clenching** 119:20  
**closed** 77:24  
**clothing** 63:12 70:18  
**coat** 66:9 69:13 78:6 79:9  
**collects** 86:9  
**Columbus** 4:12 6:13,17  
 23:10 24:14 107:13 119:1  
**combative** 28:8  
**come** 9:4,8 12:19 17:22  
 18:10,11,12,14 19:9,10,11  
 20:5 25:3 27:19 38:21  
 39:10 43:23,24 44:1 54:7  
 90:9,12 92:21 93:5,12  
 98:3 105:23 110:5,6  
 113:10  
**comes** 19:18 24:22 41:14  
 75:17 91:14 93:16 98:13  
 99:9 116:22 120:9  
**coming** 65:19 76:5 91:9  
**command** 9:5,8 17:24  
 18:3,6,12 19:3,6,12,14,20,  
 23 20:5,25 22:22 23:6  
 36:4,9 37:19,24 42:24  
 43:18,25 48:6,22 50:2  
 51:24 52:17 58:2 59:18  
 92:13 94:8,13,22 110:8,12  
 111:2,19 115:10 117:20  
 119:7,9  
**commander** 4:1,13,14  
 6:25 7:9 8:2,3,9,12 9:9  
 20:7 21:10 46:13 63:25  
 64:5 75:25 102:17 104:20  
 110:15 113:4 122:17  
**commanders** 120:20  
**commands** 36:2 37:16  
 38:10,18 39:10,17,19  
 40:17 42:2,15,20 45:9  
 117:3

**commences** 116:11  
**comment** 117:17  
**community** 8:11 10:24  
 121:20  
**compared** 49:23 52:8  
**comparing** 29:15  
**compartmentalize** 119:5  
**complains** 15:2  
**complaint** 9:2 11:4 17:21,  
 25 18:14,21,24 19:6,8  
 20:4 49:1,5 88:6 92:4  
 101:22 111:18 112:20  
**complaints** 9:4,6  
**complete** 41:11 72:14 86:4  
 87:4 98:14  
**completed** 58:2  
**completely** 70:17 97:18  
**compliance** 34:13 117:11  
**compliant** 28:18 29:5,10  
 37:4 95:25 119:6  
**complicated** 70:25  
**comply** 27:3 32:22 34:19  
 109:24 117:20 118:15  
 119:1,9 120:2  
**complying** 39:2 117:3  
 118:25  
**concentrate** 5:13  
**concern** 59:15  
**concerns** 51:25 94:9  
**conclusion** 21:20 54:8  
 80:21 90:10  
**conduct** 8:19 13:10 30:8  
 55:7 121:4  
**conducted** 48:24 96:20  
 98:9 121:1  
**conflicting** 38:18,22 42:20  
 45:9 49:15 112:16  
**conformance** 65:8  
**confronted** 32:8  
**confusion** 15:18  
**connection** 62:3,4  
**consensual** 105:15 109:20  
**consent** 109:18  
**consider** 15:25 17:7  
**considered** 80:23  
**constantly** 25:9  
**constitution** 10:23 11:17  
 12:2  
**constitutional** 9:18 10:21  
 11:5,23 26:20  
**contact** 58:12 59:14  
 108:19  
**contain** 81:19  
**contained** 89:2 98:19

**contains** 41:20 87:13  
**continuum** 20:10,14  
 34:15,19  
**contribute** 105:2  
**control** 28:7  
**conversation** 73:12  
**convoluted** 5:2  
**correct** 8:6 10:21 12:12,  
 16,20 15:22 20:23 21:15  
 25:22 26:21 30:23 34:21  
 41:17 44:4 52:3 73:16  
 74:23 93:17 98:20 100:11  
 112:4 120:15  
**counsel** 6:10 64:3,9,10,11  
 69:20  
**counsel's** 68:25  
**couple** 7:20 30:3,9  
**course** 17:14 69:16 115:15  
**court** 13:12 43:9 44:18  
**courts** 15:14  
**covered** 30:7  
**crime** 27:18 35:21 43:6  
 45:1 46:3 107:16 108:11,  
 13,14 109:7,15,17  
**criminal** 14:20 16:18  
 45:22,24 49:22 104:7  
 105:12  
**cruiser** 87:8,18,20 88:4  
 120:16,24 121:3  
**Curmode** 4:1,10,14 21:11  
 64:5 102:17 104:20  
 122:17  
**Curmode's** 63:25 75:25  
**current** 7:20  
**currently** 23:7

---

**D**


---

**Dale** 6:3  
**dark** 62:23 102:21  
**date** 47:1  
**dates** 47:10  
**day** 47:8,12  
**de-escalation** 28:12,13,16  
**deal** 18:8 59:19  
**decide** 112:24  
**decides** 27:19 85:5 87:14  
**deciding** 35:16 64:13 65:8  
**decision** 35:12 86:17,22  
 89:13 90:5 114:14 116:4,7  
**decision-maker** 20:8,15,  
 16 21:1 64:6 95:16  
**decision-making** 63:5  
 64:13 100:7  
**decisions** 13:12 15:15  
 64:5,7,8



**deemed** 39:18 87:2,9  
**defensive** 119:15  
**definitely** 69:23  
**degree** 6:22  
**departing** 99:5  
**department** 4:12 23:11  
 24:13,14 25:13 33:20 34:5  
 120:7  
**departments** 7:14  
**depend** 35:10  
**depending** 51:14 52:9  
 110:9  
**depends** 8:17,22 9:15  
 20:11 36:15,25 37:13 44:5  
 53:6 82:5 85:15 87:22  
 88:24 117:23 118:8  
 119:19  
**deposed** 4:3  
**deposition** 4:18 5:5,18  
 21:5 61:8 122:20  
**depositions** 5:16 66:3  
**deputy** 20:21 96:25 110:13  
 112:25 113:6 114:16  
 116:6  
**describe** 117:1  
**described** 61:25  
**description** 61:24 62:14  
 69:15 70:3 72:6 73:3 74:5  
 98:24 103:16 105:18  
**descriptions** 66:25 71:16  
 84:12  
**descriptor** 104:16  
**desist** 27:13  
**detail** 23:19 55:9 81:19  
 82:25 113:10  
**details** 36:17 82:9,10,12  
 84:2 87:6  
**detain** 73:13,19,21 91:21  
 95:22  
**detained** 73:8 91:18 92:14  
**detaining** 16:9 93:6  
**detention** 10:9 14:20,23  
 15:3 16:11,12,15,16  
 17:18,22 18:11 44:20  
 92:21 95:1,24 96:3 100:16  
 104:15,22  
**detentions** 9:19 12:24 18:8  
**determination** 16:25  
 29:17 30:2 40:16,18 42:4,  
 21 43:5 44:25 45:7,22  
 46:1 58:22 59:1 63:15,18  
 92:19 100:9 103:5 104:2,  
 14 113:15 115:4,13  
 116:12,18,23,24  
**determinations** 87:10

**determine** 16:15 29:20  
 35:7 41:15 73:3 74:8  
 85:19 89:9 91:19  
**determined** 43:8  
**developed** 66:3  
**differ** 85:3,7  
**differed** 84:22  
**difference** 83:9  
**different** 7:12,21 8:12  
 18:14,15 23:23 25:2,7,13  
 30:3,9 40:2 44:7 65:23  
 70:17,18 82:12 95:20,21  
 103:9 108:3,18 110:7  
 121:10 122:2,4  
**differs** 85:11  
**difficult** 62:21 63:7 72:19  
 80:15 85:19 88:1 119:23  
**direct** 33:15  
**directive** 33:5  
**directives** 30:8  
**directly** 43:18  
**directs** 9:23  
**discrepancy** 51:20 71:15  
**dispatch** 59:25 60:7 61:10,  
 11,25 62:11,14 63:11,13  
 65:11,18 66:6,12,14 70:4  
 71:4 72:2 74:23 75:17,18  
 76:22 77:7,21,22,25 78:1,  
 10 79:12,21,23 80:5 84:21  
 85:4,11,25 88:19,22 89:23  
 90:7 91:3 94:7 95:3 97:19,  
 21 101:17 102:3,12,13  
 103:22,23,24 104:8,17  
**dispatch's** 101:15  
**dispatched** 68:4 88:20  
 103:25 107:15  
**dispel** 73:20  
**displayed** 118:10  
**disposition** 9:11  
**dispute** 79:3 91:1,8,15,16,  
 25 92:1,3,7,20 114:18  
**disputing** 91:9 92:8  
**distractions** 5:12  
**division** 15:13 30:8  
**divisional** 15:17  
**document** 62:19  
**documentation** 53:3  
**documenting** 23:23  
**documents** 5:17 23:19  
 51:16  
**doing** 13:24 25:9 27:14  
 81:10 98:10 115:17  
 119:19  
**door** 36:22 39:11 40:13  
 41:22

**drive** 102:24  
**driving** 69:14 79:2  
**drove** 79:3  
**DT** 118:19 119:15  
**duly** 4:2  
**duties** 8:1,8 97:15

---

**E**

---

**e-mail** 52:12,19  
**earlier** 93:1,4 105:14  
**early** 7:9  
**easier** 15:10  
**Eckenrode** 50:5,6  
**education** 6:21  
**either** 109:24 116:16  
**eliminated** 105:11  
**encounter** 105:15 109:20  
**enforcement** 6:15,16  
**ensure** 34:20,25  
**ensuring** 96:19  
**entire** 47:7 53:11 56:8,12  
 57:5 58:21,25 59:5 81:2,4  
**entirety** 69:22  
**entity** 115:9  
**escalate** 28:18,21  
**established** 58:1 75:15  
 79:5 81:1  
**event** 6:10 26:18  
**evidence** 116:21  
**evolve** 105:25  
**exact** 26:14 44:23 99:2  
 102:23  
**exactly** 8:21 13:3 14:6  
 29:2 45:15 53:21 66:20,21  
 117:16 118:21 119:14  
**EXAMINATION** 4:4  
**examined** 4:3  
**example** 36:5 83:13  
**excessive** 20:2  
**Excuse** 57:21 99:23  
**exhibit** 21:5,9 30:12,13,16  
 46:22 54:22 55:12 56:9  
 57:8 59:24 60:5,20,22  
 61:8,19 77:15 83:17  
**exist** 29:11  
**existed** 88:16  
**exists** 35:8  
**expect** 26:23 86:21 87:5,  
 15 88:7,15 91:2  
**expectations** 86:7,11  
**expected** 82:15,25 85:9  
**experience** 6:19 81:14  
 99:21

experienced 24:22  
 experiencing 80:18  
 expertise 25:18 118:19  
 explain 7:3 60:3  
 extent 11:7  
 external 112:20  
 extra 86:19  
 extreme 71:1

---

**F**

---

face 58:10  
 face-to-face 52:18  
 faced 32:18  
 fact 68:13 71:9 72:20  
   74:24 75:1,18 80:14,16  
   100:20 102:18  
 factor 108:23  
 factors 27:18 35:15 80:22  
   98:2 105:23 107:10  
   117:23 118:11 119:20  
 facts 64:4,11 66:2 70:10,  
   11 87:5 98:19 99:6  
   100:10,16 114:19,20  
 false 69:1  
 far 12:24 75:25 86:8  
   103:25  
 feel 22:13 25:2 85:16 94:1  
   95:4,7 97:5 103:8 109:21  
 feels 115:7  
 fellow 31:4,21  
 felt 77:3  
 female 66:7  
 figure 109:25  
 file 48:11 114:8  
 filed 49:1,4  
 filing 47:21 48:8  
 final 20:8,15,16 21:1 64:6  
   93:16 95:15  
 find 82:10  
 finish 5:9  
 first 37:24 82:4 112:23  
   115:25  
 fluid 38:7 65:12 103:2  
 follow 26:20,22,25 31:25  
   34:25 59:9 72:15  
 follow-up 22:11,15,21,23,  
   25 49:20 53:16,24 62:1,15  
   70:19 75:3,20 76:24 77:4,  
   5 79:10 80:20,25 99:3  
   100:18  
 followed 49:21 56:23  
   57:18 70:21  
 following 39:18 40:17  
   42:1,19,23 52:17 108:4

follows 4:3  
 force 5:21 7:19 20:1,2,8,9,  
   10,11,23 21:2 23:4,10,19,  
   24 24:4,17,21,22 26:21  
   27:5,11,15 28:2 29:7,11,  
   15,16,21 30:22 31:1,20  
   32:21,22 33:4,7,15,21  
   34:6,16,19,21,23 35:3,8,  
   17 36:2 44:20 48:5,21  
   54:18 56:11,14,21 57:10,  
   16,20 59:1,19 62:5 64:16,  
   20 111:23 114:5 115:2,13  
   116:16,17  
 forever 104:6  
 forgot 102:6  
 form 9:20 10:12 13:2,9  
   14:2 15:9 17:2,9 18:9  
   23:15,21 24:10,23 25:8  
   26:5 27:12 28:3,20 29:8  
   31:5,13,23 32:10,20 35:4,  
   9 36:3,13 37:18 38:19  
   39:4,21 40:22 42:7 43:1  
   44:14 53:5,17 55:11 56:1,  
   24 57:22 58:14,18 62:2,16  
   64:22 69:19 70:24,25 72:7  
   74:14 75:4,23 76:25 77:12  
   79:14 81:21 82:17 83:7  
   84:2,13 85:2,13 86:10,25  
   87:11,21 88:23 89:15  
   90:13 91:5,23 97:22 99:5  
   100:2,19 101:25 102:14  
   104:5 105:7 106:7 111:4  
   114:24 117:21 118:2,17  
 forms 83:16 87:1  
 forth 52:24  
 forward 21:10 47:14  
   48:10  
 forwarded 47:4,11,13  
   48:7  
 forwarding 48:9  
 found 21:13  
 four 7:7  
 Fourth 27:4  
 frame 26:14 67:8  
 frames 26:12 66:22  
 free 73:14  
 front 41:14 74:4  
 fully 29:5,10 119:6  
 further 10:5 54:1 122:11

---

**G**

---

garbled 68:3  
 gather 116:13  
 GB 55:1  
 GB784 55:3

gear 38:2  
 gender 103:25  
 general 70:9,20  
 generalities 87:24  
 get all 98:11  
 getting 31:20 103:11 106:9  
 give 21:8 36:1,5,8,9,17  
   37:16 38:17 41:8 51:25  
   83:13 93:24 94:23 115:23,  
   24 117:19 118:1,14,25  
   119:7,9 122:8  
 given 12:15 34:21 40:4,12  
   52:21 53:8 78:18 80:4  
   94:20 97:20 112:16  
 gives 114:19  
 giving 38:9 79:23 99:12  
   105:22 107:24 120:1  
 go 5:6 6:9 9:6 16:4 19:20,  
   23 20:20,21 22:22,24  
   39:23 43:17,23,25 44:10  
   45:12 46:21 52:7,12  
   53:12,13 54:1 65:14 73:5  
   83:8,17 85:19,25 88:21  
   89:24 90:3 92:22 93:22,23  
   94:7 95:2,25 96:3,25  
   98:11 102:23 110:8,12  
   111:16 112:15,19 113:6  
   120:18,19  
 goes 17:25 18:17 19:13  
   20:3 45:24 64:6,12 82:6  
   114:11,14,15  
 going 11:6 12:5 30:19  
   33:24 35:25 39:6,25 43:8  
   50:7 52:19 57:23 61:1,7,  
   14,18 63:22,23 64:21  
   67:10,22 71:2,21,22 77:15  
   80:12 81:14 91:22 94:23,  
   24 96:23 101:6 102:24  
   104:25 105:2 106:2  
   108:12,13 116:20  
 Good 4:6  
 Gotcha 54:24  
 gotten 26:13  
 govern 30:6,8 31:17 32:21  
   33:4,14,20  
 governing 24:25  
 governs 34:6  
 gray 66:9 78:6  
 ground 38:25  
 guess 7:13 9:3,25 10:7  
   12:19 17:19 31:19 32:4,25  
   34:4 53:2,10 71:11 74:20  
   83:8,17 86:20 108:1  
   111:14 118:13 120:14  
 guide 33:6 67:2 71:4,18,19  
   72:12,13,14 89:6

**guilty** 43:6

---

**H**

---

**hand** 41:25**handcuff** 115:12**handcuffed** 110:10,11,24

111:1,18 112:22,24 113:8

114:20,22 115:24 116:17

**handcuffing** 114:12**handled** 9:14**handles** 19:6**happen** 9:1 38:16 52:2

65:20 67:5 80:13 86:18,19

88:12 99:17 105:1,24

**happened** 53:14 54:6

56:19 67:4 80:14 115:8

**happening** 38:4 63:2

116:14

**happens** 89:6 105:1**hard** 66:20**harm** 31:3**harms** 31:21**head** 66:8 69:12 78:7 79:8

80:6

**hear** 66:20 99:24**heard** 66:7**hearing** 78:19,21**hey** 59:15 70:21 86:16**hours** 61:15,18 77:15**huh** 108:23**hundred** 23:7**hundred-and-some** 8:14**hypothetical** 64:3 65:21

71:1 76:3 79:15 81:3

87:24 91:24 99:12 107:2

113:18

**hypothetically** 85:18

---

**I**

---

**IA** 114:11**IAB** 43:3 47:16,17 48:3,8,

9,10,22 50:7 60:15,21,23

**identification** 21:6 55:12**identified** 55:13**II** 57:11**illegal** 92:21 96:2**impair** 5:12**importance** 33:1,19**important** 34:18**impossible** 62:24 80:15

101:25 102:4

**improper** 115:8**in-person** 115:15**in-service** 25:24**inaccurate** 102:12**incident** 6:2 50:8,16 55:8,

18 57:11 61:12 68:9 79:18

81:20 82:2,4,5,16,19 83:1,

5,10,12,14,23 88:5,10

**include** 86:4 87:14,18

88:7,8

**included** 65:17 82:15 84:8,

12 86:21 89:4

**includes** 87:1**indicate** 110:21**indicated** 115:11**indicating** 104:6**individual** 14:16 28:19

42:16 43:5 44:25 45:16

63:21 71:21 74:22 75:2,21

76:20 117:3

**information** 6:9 16:19

39:23 41:12,14,19 62:20

63:1 65:11,15,19 78:12

80:4 81:4 82:6 83:7 84:2,

8,22 86:8 87:13 89:3,11,

12,16 90:22 91:3,18 92:16

94:4,12,21 98:12 111:5

**inherent** 105:13**initial** 66:12 79:20 92:6

102:1 111:10

**initially** 111:17,20**initiate** 73:12**injury** 57:12**inside** 63:14**instance** 53:3**instances** 94:25 99:16**instituted** 92:13**interaction** 57:19,20**internal** 8:25 9:7 10:16,17

11:8,14,15,20 15:15 17:23

18:1,3,13,17,25 19:5,10,

13 20:3 23:22 43:4,11,13,

16,18,22,24 44:1,2,3,4,11,

16 45:3 47:14,16 49:1

92:22 93:11,18,21,25

94:22 95:2,25 96:4,6,25

97:8 98:11 111:8 112:15,

19 113:4,11,23,24 114:2,

6,14 115:5,8,23

**interview** 49:11**interviews** 96:7 115:15**investigate** 9:17,25 11:21

20:6 64:19 76:21

**investigated** 15:4 93:13**investigates** 19:11**investigating** 15:16 73:23

82:22 87:3 91:6 100:14

104:22 115:2

**investigation** 6:5 8:17,23

10:1,4,5,8,12,18 11:3,9,16

19:16,18 21:22,23,25 22:7

42:9 43:12,14,16,17,23

44:5 45:3 46:9 47:9,18,24

48:25 49:10 51:1,2,5,13,

14,18,23 52:3 53:11,23

54:2 55:7 56:16,17 57:25

60:12,15,21 64:16 65:16

69:16 74:17 77:3 82:22,23

86:7,22,23 87:4 88:6

91:13,15 92:2,6,12,23

93:11 94:1 95:1,9,17,18,

22,24 96:13,19,22 97:16

98:9,19,21 99:19,20

100:15,25 109:24 111:6,9,

11,22 112:13 113:25

115:14,18 116:12,15,25

**investigation's** 47:22**investigations** 8:16,18

10:16 11:2 16:10 44:16,17

93:5 95:21 96:25 97:8

112:20

**investigative** 14:19 15:12

16:19 90:21 109:23

**investigator** 86:8 88:7,21

91:2

**involved** 8:16 18:20 22:16

49:12 61:11,12 106:23

109:17 118:11 119:22

**involvement** 8:23**involving** 6:3**issue** 30:6 41:25 44:18

45:2 51:22 104:21

**items** 66:10 77:10,23

---

**J**

---

**job** 23:14 24:2**Johnson** 11:20**joining** 6:16**judge** 39:24 43:9**judgement** 80:12**judges** 15:14,19**justice** 24:14 25:13 42:19**justified** 116:8**juvenile** 7:19

---

**K**

---

**keep** 108:4**kind** 4:22 8:18 13:12 14:9

28:6,9 67:1 72:22 79:24

81:22,23 88:2 92:7 99:20

107:23

**kinds** 72:18

**know** 4:21 5:3,6,9 11:10  
12:11 13:15 22:5 23:9  
25:12,17,21 26:6,14 29:1  
31:11 42:11,12,15 48:13  
50:1,9 51:7 67:7,21,23  
68:14 72:9 76:20 78:15  
79:16,24 80:8 83:15 88:16  
89:19 90:7,17 91:8 92:7  
95:9 97:23 98:4 108:7  
112:2 113:7,9,17 114:8  
115:20 117:16 118:5,21  
119:17 120:4,15 121:19  
**knowing** 39:6 81:15  
**known** 39:24

---

**L**

---

**lack** 62:3 90:22  
**lacking** 92:15 100:24  
**law** 6:15,16 10:21 12:14  
13:12 15:15,21 34:13  
44:18  
**lawful** 14:15,22 15:3 42:10  
43:7  
**lead** 92:3 108:23  
**leading** 81:15  
**leave** 73:15 109:18,21  
**led** 83:1,2  
**leeway** 97:20,23 98:4,5  
**legal** 10:23 12:15,18,25  
13:11 16:11,14,15,24 17:6  
**legality** 17:7,13,14  
**lengthy** 43:3,10 75:8  
**letter** 116:22  
**level** 9:9 20:14,20,23 21:1,  
14 28:2,6 34:21 48:5,21  
54:12,18 57:11,16 97:1,2  
110:13,15,18 113:4 116:8,  
16  
**levels** 9:14 20:8 23:24  
34:15  
**liaison** 8:11  
**lieutenant** 7:7,11 22:23  
46:12 50:4 51:25 52:15,16  
59:12,14 113:15  
**lieutenants** 8:13  
**light-skinned** 71:20 79:6  
103:1  
**lighting** 62:22  
**lights** 68:8  
**limited** 80:4 99:20  
**limits** 13:7  
**line** 21:10 54:10 103:24  
104:16  
**listen** 22:8 40:8 76:13,21  
90:6 98:25

**listened** 61:22 62:9 77:17  
**listening** 68:2,5  
**literally** 75:1  
**little** 23:7  
**LLOYD** 9:20 10:11 11:6,  
13,24 13:1,9 14:2 15:8  
17:1,8 18:9 23:15,21  
24:10,23 25:8 26:4 27:12  
28:3,20 29:8 31:5,13,23  
32:9,20 33:2,11,22 34:9  
35:4,9 36:3,13,24 37:18  
38:19 39:4,20 40:22 42:6,  
25 43:20 44:13,22 45:10,  
15 46:18 47:19 49:16  
53:5,17 54:10,14 55:10,25  
56:24 57:21 58:13,18  
60:3,8,11,14,18,20,24  
62:2,16 63:22 64:21 66:13  
67:21 68:12,19,22 69:19  
70:24 72:7 74:13 75:4,22  
76:25 77:12 78:8 79:13  
80:24 81:21 82:17 83:19  
84:13,24 85:2,13 86:10,25  
87:11,21 88:23 89:15  
90:13 91:4,22 97:22 99:4,  
23 100:2,19 101:24  
102:14 104:4,18 105:7  
106:7,21 109:6 111:4,21  
114:23 117:7,21 118:2,16  
119:10 122:15  
**loaded** 79:25  
**loading** 66:9 77:10,23  
**location** 63:10 68:11 70:12  
74:5 75:19 76:23 79:12  
98:25 99:2 100:18 103:23  
**logical** 87:7  
**long** 5:2 6:12,24 65:1  
69:25 72:18 102:4,9  
117:19 118:25 119:4,7  
120:11  
**look** 5:20 11:2 16:3,23  
17:3,14,17 24:8 30:11  
35:18,24 40:8 52:7,12  
53:12,13 56:2 58:20,21,25  
59:5 65:9,17 71:3 74:16  
76:17 77:3 88:13 89:1  
90:16,19 92:6 93:23 94:5,  
6 110:17  
**looked** 5:15,16 46:15  
62:10 88:9 95:10  
**looking** 24:4 30:1 55:14  
56:11 57:14,15,17 60:21  
65:11 80:15,17 100:10  
**looks** 47:1 55:15 116:20  
**lot** 52:14 63:3 65:1 67:1  
82:6 83:15 85:4,6 87:25

**loud** 4:21  
**lower** 9:14

---

**M**

---

**mace** 20:17,23 21:14 28:6  
54:12,15,18 57:11,16  
58:10 59:1,8 110:8,11  
111:23 112:3 113:2,16,20  
114:4,5,12 116:16  
**maced** 58:17,20 110:10,  
24,25 111:1 112:22,23  
114:20,22 115:25  
**main** 27:25 30:6  
**maintain** 114:10  
**making** 29:16 63:16,18  
85:20 87:9 89:13 111:17  
**male** 70:5 102:22,25 103:1  
**males** 66:7,9  
**man** 69:11 78:5  
**manual** 25:10  
**Marie** 4:10  
**marked** 21:5,8 59:24 61:8  
120:16 121:3  
**match** 61:24 62:13 70:23  
72:5 73:2 74:5,6 103:15  
**matched** 63:20 79:11  
**matches** 74:6,24 75:1,18  
76:22 98:23 100:17,23  
101:4  
**material** 15:13  
**matter** 68:10 70:1,13,15  
91:15  
**mean** 28:15 29:18 35:5  
36:4 37:8 38:11,21 46:6,8,  
9 50:12 66:19 67:17 81:7  
82:9,18 83:15 84:14 85:15  
86:11 91:8 97:10,23 98:5  
108:7 112:2  
**means** 27:3  
**medication** 5:12  
**men** 78:5,6  
**mentioned** 117:10  
**military** 6:19,20  
**minute** 61:3 122:8  
**minutes** 61:15,19 77:16  
**mischaracterization** 31:24  
42:8 77:13 102:16 105:8  
106:8  
**mischaracterize** 63:25  
**mischaracterizing** 10:17  
43:13 106:16,19  
**misconduct** 92:5  
**missing** 93:20,22 95:4,8  
96:22 97:5

**misstating** 43:12  
**misunderstood** 34:2  
**mixing** 58:3  
**morning** 4:6,7  
**mounted** 122:4  
**move** 39:1,13,17 40:15  
 41:24 65:13  
**moving** 39:16  
**multi** 75:10  
**multi-part** 105:22  
**multiple** 38:9,10 42:7  
**multiple-parts** 41:2

---

**N**

---

**name** 4:8,15 50:4 117:6  
**narcotics** 7:18  
**narrative** 41:20,21  
**near** 75:19 76:23 79:12  
 98:24 99:2 100:18  
**nearly** 37:8  
**necessarily** 38:21 52:10  
 67:10 88:24 89:1 112:14,  
 18  
**necessary** 20:2 22:12  
 34:23 87:3,9  
**need** 5:8 6:10 31:16 34:20  
 35:2,7,18 58:25 59:10  
 85:12 90:7 94:11,16 96:7  
 103:3,4 109:23  
**needed** 22:13,24 53:4  
 59:16 77:4  
**needs** 110:5  
**never** 48:11 71:16 94:20  
 115:23  
**night** 62:23 71:20 80:9  
 102:21 105:17  
**normal** 17:24 51:12  
**notice** 70:22  
**number** 55:1 57:11 68:3  
 70:17 88:10 99:15,16  
 100:4  
**numbers** 23:13  
**numerous** 100:21 102:17

---

**O**

---

**object** 11:7 63:22,23,24  
 64:22 91:23 100:22  
**objection** 9:20,23 10:11  
 13:1,9 14:2 15:8 17:1,8  
 18:9 23:15,21 24:10,23  
 25:8 26:4 27:12 28:3,20  
 29:8 31:5,13,23 32:9,20  
 33:2,22 35:4,9 36:3,13,24  
 37:18 38:19 39:4,20

40:22,23 42:6,25 44:13  
 48:16 49:16 53:5,17  
 55:10,25 56:24 57:22  
 58:13,18 62:2,16 66:13  
 68:12 69:19,20 70:24 72:7  
 74:13 75:4,22 76:25 77:12  
 79:13 80:24 81:21 82:17  
 84:13,24 85:2,13 86:10,25  
 87:11,21 88:23 89:15  
 90:13 91:4 97:22 99:4  
 100:2,19 101:24 102:14  
 104:4 105:7 106:7 111:4  
 114:23 117:21 118:2,16  
 119:10

**observations** 115:16  
**obstruction** 42:18,23  
**obtain** 94:3  
**obviously** 51:15 72:9  
 79:16  
**occasion** 9:16 10:4 11:1  
**occur** 100:6  
**offers** 27:14  
**officer** 7:6 9:17 11:21  
 14:16 18:7 19:2 20:1 24:4  
 27:19 28:1 31:4,22 32:5  
 35:16 36:10,20 37:19  
 38:24,25 39:2,12,19  
 40:12,14,17 41:16,22,23  
 42:22 45:8 52:7,8 53:13,  
 14,24 55:24 56:5 57:15  
 58:2,21 62:4,10 68:7,15  
 69:3,6,21,25 70:14 71:2  
 72:3 73:6,18 74:1,12  
 75:14,15 80:22 82:21 85:5  
 89:7,16 91:13 92:14 93:6  
 97:20 100:6 102:11  
 103:14,16,19 106:17  
 107:13 108:9 109:14  
 110:25 112:3,22,23  
 114:21 116:2 117:19  
**officer's** 17:23 29:16 34:6  
 42:19 43:25 44:12 58:23  
 73:4 74:8 89:10 92:12  
 104:14 111:20,25 112:17  
**officers** 8:11,14,16,19 9:18  
 10:20,23 12:10,15 13:6  
 16:1 20:9 22:15,19 23:3,  
 20 26:19,23 27:7 28:9,11,  
 13,17 29:6 30:22 32:18,22  
 33:6,10 34:7,13 35:2 36:1  
 37:16 38:9,12,17 45:20  
 49:12 54:15 56:23 62:18  
 63:4,17,19 67:2 69:17  
 71:18,22 72:1 75:20 78:2,  
 11,18 79:21 80:3,11 81:18  
 82:25 88:20 89:13 91:19  
 92:17 97:19,24 98:14  
 99:21 101:19 103:3,21

104:23 107:1,7 109:21,25  
 116:20 120:18 121:13,16,  
 21  
**officers'** 40:19 49:22  
 51:20 54:8 57:17  
**oftentimes** 35:12 102:20  
**oh** 17:10 46:16,25 50:9  
**Ohio** 6:23  
**okay** 4:11,14,17,21,25  
 5:23 6:1,11,24 7:10,16,22,  
 24 8:1,5,8,15,18,20 9:10,  
 13,16 10:3,7 11:1,13  
 12:10,14,18 13:3,22  
 14:13,22 15:2,24 16:4,14,  
 20,23 17:5,17 18:2,5,17  
 19:8,13,17,22,25 20:7,12,  
 18,22,25 21:4,13,18,24  
 22:3,11,14,18 23:1,3,9,18  
 24:1,3,13,17,20 25:6 26:1,  
 16,19,23 27:7,24 28:11  
 29:14 30:5,11,19,21 31:2,  
 19 32:3,13 33:2,17 34:2,  
 18 35:2,15 36:1,20 37:3,  
 10,16 38:3,15 39:14 40:7,  
 11 41:19 44:6,9 45:19  
 46:5,21 47:7,13,17 48:2,7,  
 14,18,24 49:3,11 50:1,10,  
 18 51:8,11,19 52:2,5,22  
 53:2,10,21 54:7,21 55:6,  
 17,19,21 56:5,9,17 57:4  
 59:3,7,13,17,21,23 60:1,  
 18,24 61:9,13 63:10 66:1,  
 5,18,24 67:10,12,16 68:1,  
 17 72:1 73:14,17,23 76:9,  
 19 77:7,21 78:4,14,22  
 82:5,13 83:8 84:3,11,21  
 85:9,23 86:6,20 87:17  
 88:4,11,15,19 89:9,22  
 90:24 92:10 93:1,10,15,20  
 94:3,6,11,25 95:6 96:9,13  
 97:7,17 98:17,23 100:13  
 103:7 105:4,20 106:1  
 107:19 109:1 110:2,7,14,  
 16,20,23 111:14 112:6,10,  
 14,21 113:13 114:13  
 115:20 117:1,19,25  
 118:24 119:25 120:13,17,  
 21,25 121:5,11,15,17,23  
 122:1,6  
**once** 11:7 19:14 98:25  
**one's** 47:22  
**one-way** 69:9  
**ones** 30:3,9 82:11  
**open** 36:22 40:13 91:14  
**opened** 92:13  
**opens** 39:11 41:22  
**opportunity** 15:6 16:6



**opposed** 106:15  
**opposite** 69:9 116:3  
**orange** 66:8 78:7  
**oranges** 58:4  
**order** 38:22  
**ordered** 122:14  
**orders** 39:3 42:19  
**original** 106:1  
**out-of-force** 30:25  
**out-of-policy** 30:25  
**outside** 31:7 41:16 44:1  
 48:21 73:6 74:9  
**oversight** 97:2

---

**P**

---

**packet** 40:9 41:11,19 56:2,  
 7,8,21 57:2,5,6 58:9,25  
 59:5 63:16 76:2,6,10 81:2,  
 4,13 89:17,18,19 90:21  
 96:6 99:20 100:10,13,16  
 101:7 113:17  
**page** 54:25  
**pants** 69:12 70:8 79:8  
**paper** 53:12  
**paragraph** 59:4  
**parameters** 43:11  
**parked** 78:22 79:3  
**part** 23:14 24:2,7 27:21,25  
 40:9 41:5 56:22 60:4,5,8,  
 9,11 75:5 86:4 90:2,4  
 91:10,25 99:24 104:9  
 106:25 107:17 111:15  
**participate** 13:18,22 25:21  
**participated** 50:7  
**particular** 43:6 44:21 46:3  
 47:24 48:19,23 50:2,16  
 51:2 54:5 79:17 88:25  
 90:9,14 95:7 110:18  
**particularly** 89:1  
**parts** 65:2 75:12  
**passenger** 61:24 62:13  
 70:7 79:7,8  
**passengers** 82:14  
**patrol** 7:11,17,21,23  
 120:13,19,20,22 121:8,9  
**patrolling** 121:9  
**pending** 6:6  
**people** 30:24 31:20 70:16,  
 17 73:1  
**perceptions** 67:5 102:23  
**period** 120:11  
**permitted** 27:10 121:4  
**person** 11:22 12:3 16:9  
 29:7 36:10 39:13,15 40:16  
 42:23 46:2,16 52:15

58:17,21 70:22 71:18  
 73:7,14,20,21 74:4,25  
 75:19 76:22 96:5 98:24  
 108:19,24 109:15,16,17  
 113:7 115:22 116:4,5  
 117:20 119:6  
**person's** 40:21 74:5 118:9  
**personal** 6:9  
**personally** 13:10 50:12,22  
 52:14 120:4  
**pertains** 86:2,3  
**pertinence** 86:1  
**pertinent** 85:16 89:3  
**Phillips** 6:3 22:16 48:25  
 50:8 55:20 61:12,23 62:12  
 69:8,10,13,14 70:5 78:22  
 79:5,9,12  
**Phillips'** 49:7 56:14 62:13  
 66:2 77:7  
**phrase** 117:13 118:20  
**phrased** 93:9  
**phrasing** 14:9 99:25 118:5  
 119:16  
**physical** 29:6 116:21  
**physically** 71:8  
**pickup** 69:14  
**piece** 53:12  
**pieces** 103:5  
**place** 68:10 70:16 84:19  
**places** 7:12  
**play** 27:19 56:9 59:23 60:2  
 61:1,7,14,18 66:16,17  
 67:13,15 70:6 77:15 98:3  
 105:24  
**played** 61:16,20 77:19  
**plays** 63:5  
**please** 4:8 30:12 45:13  
**pluralizing** 62:18,19  
**point** 8:15 51:21 64:25  
 106:9 112:8  
**police** 4:12,13 11:9,15  
 15:14 23:10 24:14,21  
 27:14 65:24 80:10 81:7  
 107:13 119:1  
**policies** 16:5 17:3,15,16  
 24:8,24,25 26:22 30:1,17  
 31:8,10,12,15 32:15,17,21  
 33:1,4,13,14,15,19,20  
 117:14  
**policing** 38:1 99:8 101:16  
 107:21  
**policy** 15:17,21 16:3,4,8  
 17:19 21:14 24:5 26:25  
 29:15,24 30:7,18,23 31:7,  
 24,25 32:5,10,23 33:6  
 34:11,14,25 40:20 41:16

42:5,22 45:8 48:10 54:9,  
 13 56:23 57:15,18 58:24  
 59:2 64:15 65:9 73:6 74:9,  
 11 89:10 93:7  
**portion** 71:4  
**position** 4:11  
**positions** 7:10  
**possible** 81:20  
**possibly** 68:14  
**potentially** 108:24  
**premise** 91:5 102:15  
**preparation** 5:17  
**prerogative** 97:4  
**presented** 57:2 59:5 65:15  
 76:1,6  
**presenting** 57:24 60:16  
**presumably** 58:11  
**previously** 59:24 61:8  
**principles** 52:17  
**printout** 55:15,23  
**prior** 5:5 6:16 25:13 35:3,  
 8 36:2 39:7 50:6  
**prisoner** 57:12 116:17  
**probably** 22:5 27:21 29:11  
 64:25 95:24  
**problem** 57:23 77:2  
**process** 18:21 20:4 21:19  
 45:25 51:12 85:20 90:5  
 95:13  
**promoted** 7:6,7  
**pronounce** 50:4  
**proper** 9:3 15:25 42:1  
**properly** 34:14,22  
**protect** 28:8,9 34:7  
**protected** 33:10  
**provided** 62:14 84:22  
**provides** 97:1  
**public** 34:8  
**pull** 36:23 37:5  
**pulling** 36:11  
**purpose** 48:9  
**purposes** 114:9  
**pursuant** 26:17  
**put** 47:10 78:12 85:4,10,  
 16,17 88:21,22 99:21  
 103:4 111:2 119:13,23  
**puts** 97:25 114:21 116:2

---

**Q**

---

**question** 5:2,5,10 9:3 12:7  
 13:16 22:21 32:13 34:5  
 36:14,18 37:22 40:23,24  
 41:1,2 44:9,21,24 45:6,11,  
 13 52:13 53:10 59:7,10,18

62:1,6,15,21,25 63:8 64:4,  
18,22 65:2 67:11,22  
69:20,22 70:20,25 71:12  
72:8,23 74:14 78:8 80:19,  
20 85:14 86:21 89:22  
90:10,11,14 91:5,6,10,23  
98:7 99:5,25 100:20  
101:25 102:1,3,6,9,15  
103:9 104:5,10,18 106:12,  
15,17,20,21 107:5,11,12  
108:2,3 111:15 115:21  
118:24  
**question's** 52:19  
**questioning** 58:5  
**questions** 22:12,15 42:7  
49:14 52:1 63:19 64:9  
65:1 69:17 74:17,21 75:3,  
8,20 76:24 79:10 80:21  
81:1,6,12 88:2 90:8  
105:11 122:12  
**quick** 35:12

---

## R

---

**race** 63:12 82:13 84:20  
103:25 107:9  
**races** 70:17  
**radio** 55:15,17 59:24 60:6,  
23 61:10 62:11,20 63:1  
65:11,13,18 66:6,12 68:5  
70:4 71:4 72:13 78:19  
89:24 99:9  
**radioed** 78:1,3,11  
**random** 12:2  
**ranks** 7:4  
**Rarely** 76:4,5  
**read** 10:1,3,4,8 45:13,14  
51:6,15 57:16 59:4 76:12  
97:16 98:25 99:24 100:1  
**reading** 76:19 81:13  
**really** 14:3 25:2 36:17  
65:1 67:23 68:4 83:12  
84:4,5 113:9 117:14,17  
**realm** 94:18 109:22 110:2  
**rear** 66:11 69:8,10 77:10,  
23 78:23 79:4  
**reas** 104:1  
**reason** 5:11 14:11,15  
25:19 26:11 29:11 31:8,14  
34:12 70:21 72:11 73:7,10  
74:1 76:4 107:14 108:9,  
12,16  
**reasonable** 14:19 29:23  
53:15,25 54:3 63:17 73:18  
74:2,12 91:20 92:15,18  
104:3 105:5 106:5 109:15  
110:3

**reasonableness** 14:25  
16:17 27:21 29:17 104:14  
119:12,18 120:3,10  
**reasonably** 105:19  
**reasoning** 31:11  
**reasons** 31:6  
**recall** 24:13,16  
**receive** 13:13 92:3  
**received** 39:16 42:20 47:2,  
11 56:16  
**receives** 70:14  
**recess** 61:4 122:9  
**recommend** 10:2 98:15,16  
**recommendation** 9:12  
19:15 87:2,7 90:20 96:12,  
16,24  
**recommendations** 51:16  
**record** 4:9 5:7 30:14 34:3  
45:14 48:16 64:3 79:6  
100:1 106:14  
**recording** 61:14,23 67:13  
68:6 78:21  
**recruiting** 121:21  
**Rector** 50:3  
**redoing** 46:9  
**refer** 51:23 88:9  
**reference** 87:19,22  
**referenced** 35:22  
**referred** 117:16  
**referring** 117:4,12  
**regard** 98:18  
**regarding** 16:8 17:22  
**regular** 13:14 122:1  
**reinvestment** 46:6,8  
**relates** 40:20  
**relations** 121:20  
**rely** 103:21  
**remarks** 52:6  
**remember** 5:4 6:7 22:14,  
17 23:2 26:12 46:19 49:2,  
3,4,5,8,9,18 52:4 54:5  
64:24 90:18 119:25 120:5  
**remind** 4:23  
**remiss** 97:15  
**repeat** 65:5  
**repeated** 80:25  
**repeatedly** 81:5  
**rephrase** 14:3 17:19  
**report** 25:14 26:3 58:3  
60:9 76:12 81:18,19,22  
82:2,4,6,16,19 83:1,5,12,  
14,23 88:22 104:8 111:20  
112:1,4,17 114:22 116:3  
**report's** 81:23

**reported** 63:12,13 108:11,  
13,14 109:7,17  
**REPORTER** 122:13  
**reports** 23:23 91:13  
**representing** 69:21  
**request** 96:16  
**required** 26:19  
**resistance** 27:15 32:19  
**resisted** 58:17  
**resistive** 28:7  
**resolve** 94:14  
**resolved** 47:22  
**resource** 8:11 121:21  
**respond** 97:24  
**response** 7:19 8:4 25:1  
26:9 38:2 71:5 121:7,11  
**responsibilities** 96:18  
121:10  
**responsibility** 94:19,20  
**responsible** 23:4,6 24:24  
**rest** 20:20  
**restate** 5:3  
**review** 10:2,4 11:3 15:7  
16:7 19:19,24 21:19 22:7,  
8 23:13 24:3,7,14,21  
44:12 45:19,21 47:7 51:12  
54:17 55:8,23 56:8,12,15,  
21 57:1,6 88:17 91:3,14  
92:17 93:5,16,18,24  
96:11,15 97:3 98:10,14  
101:1,23 116:5,9  
**reviewable** 45:17  
**reviewed** 10:8 18:7 21:22,  
25 49:5 50:7,11,24 51:5  
**reviewing** 23:4,6 29:14,23  
40:7 56:22,25 63:16 73:4  
81:2,3 91:12 95:1 97:14  
98:18,21 100:15  
**ridiculous** 106:11  
**right** 7:5 8:24 11:24 19:4  
21:4 29:22 35:1 40:4  
52:20 54:23 64:21 70:16  
72:22 73:22 76:16 77:3  
86:2 98:21,22 108:15  
109:7 112:5 113:18 122:7  
**rights** 11:5 16:2  
**rode** 121:5  
**role** 64:1 75:25 81:1 93:3  
95:12,16 97:7 101:15  
102:3 107:18  
**roles** 95:20  
**room** 62:20 63:1  
**rose** 7:4  
**route** 111:1 115:6  
**routine** 120:22

**routing** 21:21 22:2,4,5  
40:10 47:24 48:19 50:2,17  
51:5,15 52:5 56:10 57:7  
60:19 86:14,18 97:11  
110:17,21  
**rule** 53:1 85:24 117:2,11,  
14 119:2  
**rules** 31:16 38:1  
**run** 37:13 55:15,17,23  
60:23 61:10 67:2 68:8  
71:5 72:14,15 86:3 88:21,  
25 89:6 97:25 118:10  
**runs** 97:24 121:9

---

**S**

---

**save** 88:14  
**saw** 71:8,15,23 72:17 77:2  
99:11 100:24 101:8  
102:22 107:1 108:17  
115:17  
**saying** 18:23 36:15 37:6  
43:20 50:21 60:15 69:3  
73:25 74:2,10,12 78:17  
80:13 101:3 102:21  
113:10 118:20  
**says** 21:10 38:25 39:1,11,  
12 40:15 41:24 47:4 53:12  
57:10 83:24 85:24 110:25  
112:23  
**SCAT** 7:18  
**scenario** 42:13  
**scene** 62:22 65:20 67:4  
71:8,23,25 80:12,17 81:11  
103:3 104:23 115:16,24  
116:13,14,18 119:21  
**school** 8:11 121:21  
**score** 35:23  
**se** 31:17  
**second** 21:10 75:5  
**second-guess** 71:7,13,22  
72:19 99:11 107:1  
**seconds** 61:15,19 68:10,11  
69:7 70:2,13,15 77:16  
118:1,15 119:14 120:2,11  
**section** 7:23  
**see** 24:8 49:21 51:19,22  
72:17 76:20 80:1 81:9  
87:20 90:21 96:21,22  
102:25 121:17  
**seeing** 60:4 63:4 71:3 80:6,  
17 113:17 115:11  
**seek** 101:1  
**seen** 54:20  
**sees** 116:20  
**send** 22:22 53:15 59:11  
97:5 113:4,23 114:6

**sends** 104:17  
**sense** 113:3  
**sent** 47:21  
**separate** 49:1 115:9  
**September** 8:2,3 26:10  
58:16  
**serg** 52:15  
**sergeant** 7:6,11 43:3 46:12  
50:3 65:16 117:7,10  
118:18,19 119:15 120:6  
**sergeants** 8:13  
**service** 10:24 25:10  
**set** 31:16 52:25  
**Seventeen** 7:1  
**severity** 27:18  
**sheet** 21:21 22:2 40:10  
47:25 48:19 50:3,17 51:5,  
15 52:5 56:10 57:7 86:15,  
18 97:11 110:17,22  
**sheets** 22:4,5  
**shirt** 102:25 103:1  
**short** 101:19  
**shorts** 66:8 78:7 101:18  
**showed** 88:5  
**side** 40:14 69:9 73:25  
78:25 79:4  
**sign** 94:12 96:9 97:7,10  
98:15  
**signature** 21:9 122:13  
**signing** 97:11  
**silly** 30:20  
**simpler** 88:13  
**simply** 34:10  
**sirens** 68:8  
**sitting** 74:20  
**situation** 9:15 27:17 28:18  
29:21 32:8 38:2,4 42:16  
43:8 64:1 65:23 66:2 77:2  
79:11 98:1 105:2,10,13  
107:3 120:9  
**situational** 117:23 118:7  
**situations** 32:19 35:3  
**size** 35:20  
**skirt** 101:20  
**slash** 57:12  
**social** 6:23  
**solely** 106:18 107:6,7,14,  
20  
**somebody** 36:9,23 37:5  
39:11 58:10 76:7 99:2  
108:9,17 118:1  
**someone's** 16:2,7 29:10  
**something's** 65:8  
**sorry** 21:24 29:19 34:2  
46:7 50:16,25 55:8 62:11

78:1 89:25 90:1 115:6  
121:16  
**sound** 30:20  
**sounds** 111:7  
**source** 104:7  
**sources** 65:19  
**South** 7:17  
**space** 88:14  
**speaks** 32:10  
**specific** 45:6 64:10 66:1  
82:8 107:3,12  
**specifically** 12:4 59:19  
74:24  
**spectrum** 72:24 73:1,18  
**spectrums** 73:24 74:3  
**speculation** 63:23  
**spell** 4:15  
**sprayed** 58:10  
**staff** 114:9  
**standard** 16:24 27:4,8  
**standards** 26:20  
**start** 58:11 67:2  
**started** 7:3 43:20  
**starts** 55:1  
**state** 4:8 6:23 118:9  
**stated** 45:16 114:6  
**statement** 18:22 53:13,14  
58:22,23 115:24  
**statements** 49:15,24 51:20  
56:6 57:17 62:10,11  
116:13  
**statistics** 23:9  
**step** 36:8,9,11,15,22 37:11  
**stop** 10:8 12:2,11 13:25  
14:10,16 15:3,25 17:18,22  
18:11 28:19 44:19 56:14  
63:18 64:16 69:18 72:3,  
11,25 74:1 75:15 79:20  
81:20 91:2,7,20 95:1,22,  
23 97:20 100:14,15  
102:11,19 103:13,14,16,  
20 104:2,14,22,24,25  
105:5,19,24 106:3,5,18,24  
107:13 108:9,10,16 109:3,  
13,23 113:2,3 114:3  
121:1,4  
**stop's** 37:14  
**stopped** 11:4,22 56:18,19  
63:11,21 73:7 74:3,10,22  
75:21 76:7,20,23 90:24  
91:17 92:14 108:16  
**stopping** 13:8 16:8 70:22  
93:6  
**stops** 9:18 10:21 12:24  
18:8 40:2 82:21 100:6  
101:19 109:14



**strategic** 7:19 8:4 121:6,11  
**street** 12:3 14:17 69:9  
 72:4,25 73:2,8,25 74:7,25  
 75:2,16 76:7 79:2 99:17  
 101:18,20 103:14,15  
 120:14  
**streets** 98:1 99:13  
**style** 52:25  
**subject** 45:3 50:17 57:10  
 58:16,17  
**subjects** 61:25  
**subparts** 102:5  
**Sullivant** 55:18  
**summaries** 84:7,9  
**summary** 83:18,25 84:1,  
 10,11 86:5  
**supervision** 97:2  
**supervisor** 81:14 87:3,14,  
 17 112:7,12 113:2,14  
 115:1,3,14 116:10,19  
**supervisor's** 65:16 112:12  
**supervisory** 46:12  
**supposed** 81:19 119:8  
**Supreme** 13:12  
**sure** 5:6 8:20 18:23 28:15  
 29:1,18 30:19 33:17  
 34:12,14 37:23 48:11,16  
 55:14 64:24 66:20,21  
 67:20 68:3,4 82:18 83:11  
 84:4,5,15 91:10 93:3  
 102:19 108:6 117:12,15  
 118:4  
**surrounding** 12:24 37:15  
 56:13 85:6  
**sus** 84:17 110:23  
**suspect** 28:5,8,9,19 35:19,  
 20 39:1,2,7 41:22,23,24  
 42:20 45:20 63:10 67:14  
 70:7 82:14 84:12 100:17  
 110:9,23 112:9,16,21  
 114:19 115:6,22 116:19  
 118:14,25  
**suspect's** 27:16 41:22  
 70:12  
**suspects** 62:12 63:14  
 65:12 70:4 77:22 78:4  
 84:14,18  
**suspects'** 119:21  
**suspicion** 14:19 63:17  
 73:18 74:12 91:20 92:16,  
 18 106:5 109:16 110:4  
**suspicious** 73:20  
**Suzanne** 4:1,10 21:11  
 122:17  
**sworn** 4:2 13:20 121:13

**system** 88:13

---

**T**

---

**tactics** 119:15  
**take** 5:10 35:16 37:7,8  
 51:11 61:3 63:6 72:14  
 80:3 94:9 103:4 110:2  
 114:9  
**taken** 4:18 61:4 80:7 122:9  
**talk** 6:6 16:11 50:21 52:14  
 73:19 93:25 112:7,8  
**talked** 6:2 95:11 120:3  
**talking** 11:11 42:12 44:2,  
 15,17 46:18 53:18 62:17  
 76:3 79:15 82:1 83:3,4,6,  
 11,15 87:23 107:2 113:18  
**tape** 40:8 99:1  
**tapes** 22:8  
**Tasers** 26:13  
**task** 7:19  
**taught** 13:23,25 27:7  
**teach** 10:20  
**teaches** 117:15  
**techniques** 28:14,16  
**tell** 21:18 32:17 72:16 74:2  
**telling** 68:17,24  
**tells** 32:5 41:23  
**term** 81:23 118:6 120:8,15  
**terminology** 119:16  
**testified** 62:4 68:7,15 69:4,  
 6 100:5 104:21 105:9,14  
 115:1 118:5  
**testimony** 10:15 11:8,13,  
 14,19 15:11 43:3,10 49:22  
 52:8 69:22,25 105:8  
 106:9,16  
**Thank** 4:17 109:12  
**thing** 13:13 14:24 17:15  
 26:18 35:1 39:7 74:6 76:5  
 79:11 86:19 99:1 100:17  
 101:3 106:4 107:6 118:21  
**things** 9:8 25:2 26:15  
 35:23 40:1 44:7 48:12  
 63:20 65:14,20 67:3 70:23  
 80:6 82:7,15 87:25 103:2  
 105:23,24,25 121:20,22  
**think** 7:25 10:15 11:10  
 15:10 24:2 28:25 35:11,  
 12,23 46:16,23 48:15 54:3  
 93:8,22 98:8 102:18 122:7  
**Thirty-three** 6:14  
**thorough** 86:24 96:20  
**thought** 85:20 109:10  
**threat** 35:8

**three** 7:8 40:25 51:20  
 117:13 118:1,15 119:14  
 120:1,10  
**three-second** 117:2,11,13  
 119:2 120:5  
**throwing** 91:25  
**time** 24:18 25:1 26:2,10,  
 12,14 37:17,19,20,24  
 38:10 39:10,12,24 66:21  
 67:5,7,8 70:14 80:6 87:18  
 102:5 109:16 111:19  
 112:1 119:23 120:11,25  
**times** 10:6 33:3 40:25  
 52:14 63:3 67:1 75:24  
 90:15 100:21 101:10  
 102:17 104:19,21 106:13,  
 22  
**title** 116:15  
**titles** 83:18  
**today** 5:11,18 74:21  
**told** 39:7 117:17 119:14  
 120:4  
**top** 57:7  
**totality** 16:21 27:17 35:18,  
 24 39:6,22 40:4 42:14  
 65:9 71:3 77:1 81:8  
 112:11  
**tough** 36:14 39:5  
**traffic** 121:1,4  
**trained** 12:10,23 13:6  
 25:23 28:13,17,21 29:6  
 37:10 84:7 85:10 117:25  
 118:14 119:8  
**trainer** 117:5  
**training** 10:22,24 12:1,14,  
 15,18,25 13:11,20,24  
 24:5,8 25:6,9,10,12,19,24  
 26:1,3,11,13 28:12,25  
 72:2 84:10,11 107:13  
 120:1,9  
**trainings** 12:23 13:19,23  
 25:22  
**transpire** 108:21  
**trial** 4:22 6:10 49:22  
**truck** 69:14 77:8  
**true** 70:10,11  
**trust** 101:11  
**truth** 68:18,25  
**try** 4:23 39:24  
**trying** 90:4 101:15 103:9,  
 18 109:11 121:17  
**turn** 22:24 54:22 55:3  
**turns** 82:23  
**two** 39:16 51:20 66:7,9  
 73:24 74:3 78:4

**type** 14:18,20,24 16:19  
33:5 53:7 92:2 93:13  
95:18 118:10  
**types** 95:21  
**typically** 9:6 53:7 89:17  
90:6

---

**U**

---

**Uh-huh** 14:8 19:1 29:25  
32:6,14 41:4,10,13 47:3  
48:20 57:13 75:11 76:11,  
15,18 78:24 79:1 82:24  
90:25 96:14,17 99:18  
100:8 104:12 113:21  
114:17 116:1  
**uh-huhs** 4:22  
**uh-uhs** 4:22  
**ultimately** 96:5 98:13  
**unclear** 92:11 94:1  
**unconstitutional** 10:10  
**underlying** 105:12  
**understand** 5:1 8:20 12:7,  
9 13:3 14:6 32:2 33:18  
41:1 45:23 65:7 71:11  
74:22 81:7,8 90:4 93:1,3  
98:10 99:15 101:14,15  
102:2 107:8,9 119:13  
**understanding** 108:2  
119:4  
**uniform** 122:1,3,4,5  
**unit** 8:13  
**units** 7:15 8:10,12 121:22  
**University** 6:23  
**unknown** 66:10 77:10,13,  
23  
**unnecessarily** 31:21  
**updated** 12:19  
**updates** 12:20 13:11,13  
25:10  
**use** 5:21 11:22 19:25 20:9,  
23 21:14 23:4,10,19 24:3,  
22 26:20 27:4,10,15 28:2,  
6 29:6,11,14,16,20 30:17  
33:20 34:6,20,23 35:17  
44:20 48:5,21 54:15,18  
56:11,14,20 57:10,16,20  
59:1,8,19 62:5 64:15,19  
90:12 110:8,11 111:23  
113:2,16,20 114:4,5,11,12  
115:2,12 116:16 117:2  
118:6  
**use-of-force** 30:7,18  
31:10,11,14 32:5,15,17  
33:1,19 42:9 44:15 49:24  
57:24 58:3 60:9,11 87:9  
88:5 111:6,10,21 112:4,17

114:21 116:3,11  
**use-of-mace** 92:23 111:10  
116:11  
**uses** 20:17 21:2 30:25  
32:21,22 33:4,7,15 64:7  
89:16 112:3

---

**V**

---

**vague** 81:22  
**vagueness** 74:14  
**variable** 107:9  
**variables** 67:8 72:19 80:10  
81:15 98:2 99:16 100:5  
105:10 119:22  
**variety** 18:10  
**various** 8:10 23:24 27:18  
34:15 65:19 117:23  
**vehicle** 66:10 69:15 77:10,  
13,23  
**version** 114:19,20  
**vicinity** 72:5 101:21  
103:17,23 104:15,24  
105:4,6,16,19 106:3,6,18,  
24 107:8,15,17 108:10,19  
109:5,6,14  
**video** 5:23 40:9 41:20,21  
51:17 70:6 76:14 99:1  
**videos** 49:6  
**violated** 11:18 15:17 57:15  
**violating** 16:1  
**violation** 11:5 16:8

---

**W**

---

**waist** 80:8  
**walking** 12:3 14:17 72:4,  
25 73:8,25 75:16 101:18  
**want** 14:11 17:10 30:22,24  
31:7,20,25 33:17 34:3,22  
35:15 41:5 48:16 66:16  
83:20 87:20 91:18 92:16  
93:22,23 95:3 102:2 112:8  
122:13  
**wanted** 73:15 88:17  
**wants** 36:20  
**wasn't** 48:2 67:10 71:25  
72:16 77:9 120:7  
**watch** 49:6 76:14 99:1  
**way** 52:19 57:18 65:24  
114:7  
**ways** 18:10,15 44:8 103:9  
108:3,18  
**we'll** 5:6 6:9 16:4  
**we're** 5:10 15:18 25:9  
44:15,17 57:23 60:4,20

62:17 94:24 107:1,2  
113:18 118:20 121:7,8,9  
**we've** 10:15 11:7,13 15:11  
26:13 30:3 43:2 75:14,23  
79:5 81:1 105:14  
**wearing** 80:8  
**went** 52:6 102:4 104:5  
110:17 112:25 120:5  
**whatsoever** 70:19 72:6  
73:10  
**white** 66:7,9 69:11 70:7,8  
78:5,6 79:7 87:25 101:5,  
19,22 102:22  
**witness** 4:2 64:12 67:19  
106:15  
**woman** 68:14 69:11 70:8  
78:5,7 101:17,19,22  
**word** 9:25 11:22 86:2 98:5  
107:20  
**words** 17:5  
**work** 6:23 25:20 27:14  
65:24 80:11  
**worked** 7:17,18 48:12  
**works** 23:5 65:25  
**wouldn't** 19:8 86:19 92:25  
95:23 108:15 111:9  
**wrap** 66:8 78:7 79:8  
**wraps** 80:7  
**write** 81:18 84:5,6 112:4  
**writing** 52:11  
**written** 56:6 113:1  
**wrong** 72:3 97:21 115:21  
**wronged** 115:7  
**wrote** 49:23

---

**Y**

---

**yeah** 17:12 50:20 55:14  
59:11,20 65:4 67:23 73:13  
75:7 82:18 84:19 90:1  
103:11 111:7 113:19  
121:13,19,20  
**years** 6:14 7:1,7,8 16:10  
26:14 120:6  
**Yep** 47:6  
**Yesterday** 117:5